

Committee Secretary  
Senate Standing Committees on Environment and Communications  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

3<sup>rd</sup> January 2012

To Whom It May Concern:

Re: Environment Protection and Biodiversity Conservation Amendment (Retaining Federal Approval Powers)  
Bill 2012

I write in support of the Environment Protection and Biodiversity Conservation Amendment (Retaining Federal Approval Powers) Bill 2012 as proposed by Senator Larissa Waters.

It is so crucial to prevent the Commonwealth from delegating the approval of proposed actions covered by bilateral agreements to a state or territory for a multitude of reasons.

The EPBC Act was designed to give Australia's Environment Minister the power to protect the places and animals which were so important, they mattered to all Australians: World Heritage Areas, threatened species and communities, National Heritage, RAMSAR wetlands, migratory species, the Great Barrier Reef, nuclear actions and Commonwealth land and waters. To undo the vast leaps forward that the EPBC Act has ensured is utter madness – it is devolution of everything we have come to understand about our environment and have worked so hard to ameliorate.

If the Commonwealth hands responsibility for approving proposed actions that significantly impact matters protected under the EPBC Act to the States or Territories, not only are we facing an environmental free-for-all, but there are drastic social and economic consequences to consider.

Ecosystems and environmental problems don't adhere to man-made borders

Ecosystems are complex, delicate interdependent wonders. They know no bounds and yet we try to control and contain them. We establish one set of rules on one side of an imaginary border, and another set of rules on the other. Inevitably, positive or negative impacts on the environment such as pollution, deforestation, desalination, or reforestation and rehabilitation, seep beyond man's invisible and imaginary boundaries and affect the surrounding areas. Humans should have learnt by now that we cannot so arrogantly expect these illusory parameters to 'contain' any environmental impact or issue that may arise. Think waterways, think air, think soil and aquifers and creatures that migrate.

To have a national or federal overarching body in Australia makes environmental sense; we are a continent in and of itself, we have intricate weavings of deserts, rainforests, grasslands, tablelands, wetlands, rivers,

waterways, mangroves and oceans that all interplay. The only way to ensure the best outcomes for the future of our delicate and irreplaceable flora, fauna and ecoregions is to have an all-encompassing principal federal establishment with the power to legislatively manage the health and wellbeing of our national environment. This is why Australians fought so hard to implement the original EPBC Act in the first place.

#### The poor environmental record of state governments

Let's consider the Murray Darling Basin: a prime example of a natural formation extending beyond man-made borders and a quintessential example as to why Australia's environments require Federal oversight and steering. Plain and simple: you will never have a true consensus between States and Territories, and you will never standardise rules and regulations governing such a complex, interconnected and now irreversibly damaged waterway when it is so economically, socially and environmentally crucial to so many people, towns, farms and businesses, across state borders (let alone the complex wetland ecosystems and wildlife it sustains!). History shows this is a highly contested issue which cannot be resolved without federal management and implementation.

To buck the federal government's responsibility for dramatically improving and restoring Australia's most extensive river system (affecting four of our seven States and Territories) and to pass this dwindling torch back to the state governments, will only result in further political disagreement, clandestine evasion of delay of any true, meaningful and collaborative action to repair the health of the river, and ultimately lead to the inevitable catastrophic dilapidation of the Murray Darling. Goodbye towns and families and agricultural businesses that rely on this water system, goodbye (more importantly) the health and wellbeing of the nature and wildlife in the waters and on the lands surrounding the rivers, and say goodbye to the future security of clean drinking water for all of Australia! We lose this major tourism icon, this backbone of Australia's natural environment and oh, let's not forget the loss of this truly significant indigenous biome, rich in historical, social and cultural importance.

This is not the only example: the failure of Regional Forestry Agreements to protect native forests all over Australia demonstrates how dangerous it is to leave environment protection to the states. Julia Gillard was right in 1999 when she named the track record of some states as 'environmental vandalism'. Past environment wins, such as the Franklin River, are now all up for grabs again. This is why this handover has been called the worst thing to happen to our environment in thirty years.

#### Legislative and Political Inconsistencies

In April 2012, at a press conference after the Business Advisory Forum the day before the COAG meeting, Prime Minister Gillard ruled out handing off approval powers for World Heritage and nuclear issues: "*What Premier Newman did in the room, and obviously in speaking to the media as well, did make it clear that it is his view that all approvals should be dealt with at a state level. Now that is not my view, because we do as a Commonwealth have particular responsibilities, for example in world heritage areas. That's not the only example, Commonwealth waters would be another good example, nuclear issues would be another good example... So there is a proper role for the Commonwealth too.*" However, the release of the draft standards in November 2012 clarified that **all** environment matters, bar uranium mining approvals, will be eligible to be handed over to the states.

The same Julia Gillard, said in 1999, "*... In this legislation they have enabled the states and the Commonwealth to now go through a process where, through a bilateral agreement, in future the Commonwealth could say to Victoria — and states with track records of environmental vandalism like Victoria — 'Here, you have the responsibility for the Ramsar wetlands. Here, you have the responsibility for the environmental impacts of a toxic dump,' and just let it happen.*" This exemplifies perfectly the legislative and political inconsistencies of the current federal government and its leader.

Again consider the Murray Darling River: how do four separate States all ensure a consistent approach to the management of this essential river? How does Queensland ensure that it does not take too much water from this basin, and how do the other states downstream react to such draining of this shared resource? Or pollution of this shared resource? How do businesses and industries treat different parts of the earth, carved up by imaginary lines but in reality all connected? The possibilities are endlessly nightmarish. Australia will never secure stringent, coherent and congruent environmental laws that are so crucial to the sustainability and improvement of our ecosystems under seven separate State and Territory governments, each vying for their own interests, each pursuing different goals. And then what of the federal environmental laws and regulations?

By abandoning its responsibility to ensure the protection of our most precious environmental resources, the federal government is simply handing back its powers to seven 'separate' bodies to make their own assessments and rules about environmental protection and proposed developments which will impact these lands. This is risking far too much. Our States and Territories have historically proven their inability to properly manage the wellbeing of their environments when faced with the challenge of corporate and political interests.

#### Australians want a strengthening of our federal environmental legislation

Australians don't agree with the Gillard government's decision to affect the handover of approval powers to the states through COAG and to undermine the EPBC Act. Australian Greens Senator for Queensland Larissa Waters produced a petition urging Minister Burke to retain his federal approval powers, which over 6,200 Australians have already signed. The abdication of federal approval powers is clearly not a policy in the best interests of the Australian population or our environment. It only benefits big business and big industry in being able to destroy our environment more quickly and less onerously.

Both the Wentworth Group of Concerned Scientists and separately 33 members of the UNEP Global 500 Laureates including **Sir David Attenborough** have begged the federal government to retain their powers to protect Australia's environment in a letter (<http://bit.ly/U0OKyO>). Former Federal Court Judge Murray Wilcox also recently condemned the proposals, saying "conflicted" state governments would try to take shortcuts in environmental impact assessments, describing the hand-off of power as "an extremely backward step... I'm just staggered, frankly, that it's being given serious consideration." (Australian Financial Review, 3 December 2012).

#### Big Business is driving this Reform, not Australian citizens

Big business and big industry officials and lobbyists have driven this 'reform' through their regular closed-door pre-COAG Business Advisory Forum meetings. They are pushing hard for these relaxations of federal oversight and legislation because there are big (short-term) economic gains to be made by the few corporate interests who can take advantage of the natural resources these same environmental laws are designed to protect. This again, is utter insanity. Such greedy, short-sighted and frankly selfish interests should not be allowed to impede upon this nation's ability to secure its own future. Without the health and stability of our environments and ecosystems, we have no security.

Larissa Waters put it best when she said, "Instead of speaking to conservative state premiers and business groups behind closed doors, who have demonstrated time and time again that the long-term sustainability of our increasingly threatened environment comes second to short term profits, the Prime Minister needs to engage with the Australian community concerned and support the efforts of the Greens to strengthen environmental protection." (07/12/2012, <http://larissa-waters.greensmps.org.au/content/media-releases/greens-call-government-come-clean-epbc-reform>)

#### The Economic and Social Ineffectiveness

There is no credible evidence of the need for these proposed reforms, nor evidence that the environmental risks can be managed. Government appears to have blindly accepted the claims of the Business Council of Australia about duplication and the compliance costs of environmental protection laws without seeking a sound evidence basis for those claims. Any delays in the process would occur during the assessment phase (often because the developer has not provided sufficient information), so it is at the assessment phase that reforms should be directed – not at the approval phase which cannot deliver any significant streamlining and will simply deliver environmental corner-cutting.

Under the EPBC Act (1999) all developments that would have a significant impact on any of those ‘matters of national environmental significance’ currently require approval from the federal Environment Minister. State assessment processes are accredited by the Commonwealth (“called assessment bilateral agreements”) so developers don’t have to undertake two separate environmental impact assessments, but separate approvals are still required from the state and the Commonwealth.

The Gillard government’s proposed changes would only further complicate the environmental protection laws, negatively impacting our author

### The Devolution of Environmental Protection

Our environment laws are already failing us. Australia’s environment and biodiversity are clearly in decline. The number of threatened species has nearly tripled in the last twenty years. The Great Barrier Reef has lost half its coral since the 1980s, and could lose another half in the next decade. We’ve lost valuable places and wildlife to the thousands of damaging developments that have already gone ahead. Clearly, these laws haven’t been able to protect parts of our environment that needed protection.

The ALP and the Coalition are working together to gut environment protection and push off the Australian Government’s environment approval powers to the states. It was Bob Hawke’s government which first included the environment on the national agenda by taking protection of the Franklin River all the way to the High Court, cementing the environment as an asset too precious to all Australians to be left to the states, a legacy that is now being trashed. Even Robert Hill, one of John Howard’s environment ministers, has said this handover is ‘a mistake’.

State governments have plans for 10 new mines in the Tarkine forests of Tasmania, for opening up the pristine Kimberley for a gas hub at James Price Point, for 6 new or expanded coal and gas ports in the Great Barrier Reef, for shooting in New South Wales’ national parks, and plans to log the last remaining habitat of Victoria’s endangered Leadbeater’s possum.

The government’s plans to relinquish the federal approval powers and to separately review the EPBC Act and introduce reforms to Parliament in 2013 which will adopt recommendations to fast-track development, but fail to strengthen the Act to address the biodiversity crisis Australia faces, constitute sheer madness.

The federal government already only has a sliver of environmental powers – they only have responsibility when there is a significant impact on a matter of national environmental significance. Rumours that they may retain a sliver of that sliver will lead to business uncertainty, and the hand-off remains an abrogation of their responsibility to protect *all* nationally and internationally significant parts of Australia’s environment (Australian Greens background briefing - environment law reforms + COAG handover December 2012). The role of the federal government in protecting our national environment should not be open to negotiation by big business and state governments.

### Standards will not ensure environmental protection

On 2 November 2012 federal government released draft standards which will apply to state and territory governments in an attempt to ensure the level of environmental protection won’t drop. The standards

summarise requirements under federal environmental laws, and states will have to agree to meet these standards to get accredited to issue approvals in place of the federal government.

The standards won't change the states' poor attitude and record on environment protection, and they can't prevent states determined to approve projects which will damage the environment. Compliance will be a key problem - the states will find a way around the standards or deliberately flout them, as we've seen recently when the Queensland Government refused to comply with the assessment standards for the Alpha coal mine in Queensland.

Crucially, the federal environmental laws leave a lot of discretion about approvals and conditions to the decision maker – currently the federal Environment Minister – and under the planned hand-off of powers, that discretion would be exercised by the State Ministers, who have a track record of environmental vandalism. The standards do not constrain that discretion.

It remains the federal government's job to look after the most important and precious of Australia's environment assets, which are of international significance, like the World Heritage Great Barrier Reef. No standard will be able to replace the protection that is meant to be provided by the federal Government for our precious places and wildlife, because of our international obligations to do so.

It is absurd to give away the federal Government's responsibility to protect our environment. It is the national government's responsibility to protect the places and wildlife that are precious to all of us.

If environment protection were left to the states, they would have dammed the Franklin River, put oil rigs in the Great Barrier Reef and built Traveston Dam. We cannot allow COAG in conjunction with big industry and big business to gut Australia's environment laws by giving away the Environment Minister's approval powers to state governments.

So many Australians have worked so hard to protect these places and wildlife, and people here and overseas know that they are uniquely Australian. We cannot and must not abandon them to state governments now.

In the course of your considerations, I urge you to take a moment to read the discussion paper *Principles to Protect Australia's Environment*, published by Senator Larissa Waters about what our environmental laws should look like ([http://greensmps.org.au/sites/default/files/tptl\\_for\\_web.pdf](http://greensmps.org.au/sites/default/files/tptl_for_web.pdf)). This is the future of a healthy Australia; this is where Australians want our environmental legislation to proceed.

I urge you to support the *EPBC (Retaining Federal Approval Powers) Bill 2012* –please listen to the Australian people speaking out against the hand-off of powers, and please act in the best interests of our irreplaceable and ever-precious environments and ecosystems. Without them, we couldn't survive.

Sincerely,

Margeaux Veronica Chandler