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

By email to: ec.sen@aph.gov.au

15 January 2013

Dear Sir or Madam

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

Humane Society International (HSI), the world's largest conservation and animal welfare organisation, welcomes the opportunity to provide the following submission to this Senate inquiry on behalf of 11 million supporters worldwide, and 50,000 Australian supporters.

HSI has a long standing interest in the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). HSI supported the passage of the EPBC Act through Parliament in 1999 recognising it as an improvement on the legislative regimes it replaced. We were attracted to the broad infrastructure of the Act where the Environment Minister has the central role in environmental decision making and where the triggers for Commonwealth intervention are Matters of National Environmental Significance (MNES) occurring in state and territory jurisdictions as well as Commonwealth.

The recent reforms proposed under the Council of Australian Governments (COAG) to hand over approval powers to State and Territory Governments were therefore of significant concern to HSI and our partner organisations, which led to the development of the '*Protect the Laws that Protect the Places You Love'* campaign alliance, which now consists of more than 35 groups united in our aim to rally against the COAG reforms underway. More information on our campaign can be viewed at www.placesyoulove.org

We believe that these reforms will result in a setback on decades of progress towards the conservation of threatened species and ecological communities, threatening commitments Australia has made at the international level. Whilst we understand that the recent COAG meeting held on 7th December 2012 has resulted in a delay in these reforms, we remain concerned that if approval powers in particular are handed over to State and Territory Governments it will have detrimental impacts on the conservation status of many threatened species and ecological communities.

It is with these concerns that HSI provides the following comments regarding the

Environment Protection and Biodiversity Conservation Amendment (Retaining Federal Approval Powers) Bill 2012 (the Bill).

HSI believes that if the Federal government were to hand over its approval powers under the EPBC Act to the States, as it is currently legally able to do under the approval bilateral provisions, 30 years of important gains in environmental regulation will be wound back.

HSI believes that the central role played by the Federal Environment Minister is vital, particularly at a time when all efforts need to be focussed on reversing biodiversity decline. Given the biodiversity decline, the leadership role of the Commonwealth is even more vital due to the cross-jurisdictional nature of the pressures on our environment, and the significant funding that will be needed to fund the schemes to reverse biodiversity decline. It is therefore clear that rather than withdrawing from its current environmental responsibilities, the Federal government should be strengthening and broadening its capacity to drive conservation decision-making. HSI therefore supports the Bill, as we strongly believe in the importance of the role of the Federal government in environmental regulation.

It is vital that the Federal government retain control of environmental approvals decisions on projects that impact upon matters of national or international significance. This is important in a number of significant ways:

1. National environmental issues need national leadership. Our rivers and threatened species do not fit neatly within State borders and in many cases cross over a number of State and Territory boundaries. Only the Federal government has the ability to properly consider national or cross-border issues and make decisions in the national interest.
2. Only the Federal government can deliver on Australia's international environmental obligations. Australia has obligations that have arisen from the signing of treaties and conventions dealing with such topics as threatened species, migratory species, wetlands and world heritage areas. It is not only appropriate that our national government continues to have primary responsibility for ensuring compliance with these obligations, but it is difficult to imagine how timely reporting would be achieved if these roles were delegated, either fully or partially.
3. Experience suggests State and Territory Governments are not up to the job. The states have a terrible track record with establishing and administering their own environmental laws. Some State environmental protection laws are not even used, and for those that are, they are neither monitored nor enforced. In a number of States and Territories environmental impact assessment is weak and inadequate, and the States alone cannot be relied upon for protection of environmentally sensitive places in the national interest.
4. Inherent conflict of interest - States often directly benefit from the projects they are assessing, creating a conflict of interest, especially when it comes to major developments. Approval at a Federal level adds a much needed layer of protection and safeguards for the environment in these instances.
5. History has shown that when the Federal government exempt the States or give them powers under the EPBC Act, environmental protection has been undermined and the Federal government struggles to retain an oversight role. The experience with Regional Forestry Agreements illustrates this.

For the above reasons, HSI believes it will never be appropriate for the Federal government to hand over their federal approval powers to the States. Accordingly, the power to do so should be removed from the EPBC Act. The recent law reform agenda progressed through COAG to 'cut green tape' and reduce duplication has highlighted the problematic nature of this section existing in the Act.

HSI supports the Environment Protection and Biodiversity Conservation Amendment (Retaining Federal Approval Powers) Bill 2012 as it will give certainty to the involvement of the Federal government in protecting Australia's special places and nature into the future.

Yours sincerely

Alexia Wellbelove
Senior Program Manager