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Submission to the senate Inquiry on the 'Environment Protection and Biodiversity Conservation Amendment (Retaining Federal Approval Powers) Bill 2012'

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We **do not** want this submission to be treated as **confidential** and/or **anonymous.**

This submission does not contain personal information of third party individuals.

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Introduction

The Nature Conservation Society of South Australia (NCSSA) is a community based, not for profit organisation with a diverse membership drawn from all parts of the State. The Society's primary objective is to "foster the conservation of the State's wildlife and natural habitats through effective scientific research and education".

Since its' inception in 1962, the NCSSA has taken an active interest in the protection and conservation of South Australia's natural resources with particular attention being paid to nationally and state listed threatened plants, animals and ecological communities. The Society continues to run a variety of highly regarded biodiversity conservation projects targeting critical gaps in

knowledge and action in relation to natural resource management including: improving the understanding of biodiversity within the community; on-ground action towards the recovery of threatened flora undertaken through the Threatened Plant Action Group (TPAG); supporting land managers to restore habitat on private and public land through the Bushland Condition Monitoring (BCM) program; collecting and communicating high quality scientific and technical information (e.g. Mount Lofty Bird Woodland Bird Survey); and contributing to the formation and review of natural resource management policy.

We believe that the proposed bilateral agreement between Commonwealth and State Governments will ultimately lead to significant adverse outcomes for the conservation of biodiversity in South Australia.

The NCSSA appreciates the opportunity to provide a submission to the Senate Inquiry on the 'Environment Protection and Biodiversity Conservation Amendment (Retaining Federal Approval Powers) Bill 2012' and commends the Australian Government for commissioning this inquiry.

The NCSSA offers the following comments for consideration by the Senate Standing Committee that build on previous correspondence to the Department of Environment, Water and Natural Resources from the NCSSA and Conservation Council of South Australia regarding accreditation of state approval processes under the EPBC Act:

Strong support for the retention of Federal approval powers under the EPBC Act

The NCSSA unequivocally supports the amendment to the EPBC Act for the Federal Government to retain approval powers, for a number of reasons:

- As the national government, the Commonwealth has a legitimate role in protection of matters of national environmental significance. In fact we believe it is the only entity that can efficiently assess impacts that cross state boundaries.
- Furthermore it is the Commonwealth that is signatory to a number of international agreements for the protection environmental assets, including matters of national environmental significance under the EPBC Act, not the states. The Commonwealth is responsible for ensuring Australia's obligations are met under conventions and agreements such as: the Convention on Biological Diversity, Convention for the Protection of World Cultural and Natural Heritage, Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar), Convention on the Conservation of Migratory Species of Wild Animals, China-Australia Migratory Bird Agreement (CAMBA) and Japan-Australia Migratory Bird Agreement (JAMBA).
- There are numerous examples of Commonwealth involvement leading to clear, improved outcomes that were not assured by state processes, such as helicopter flights over Kangaroo Island or cattle grazing in the Victorian Alps.

Rejection of perceived benefits to business through streamlining environmental assessments and approvals

The NCSSA contests the rationale outlined in the discussion paper provided by the Business Council of Australia (BCA) for the COAG Business Advisory Forum in April 2012 for 'streamlining of environmental assessments and approvals' is causing high costs to business in Australia.
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The two main perceived benefits to business associated with bilateral agreements are that:

1. Agreements will aid in facilitating improvements in State and Territory environmental assessment and approval processes; and

2. Agreements will reduce duplication between Federal, State and Territory environmental assessment and approval processes.

- The NCSSA considers the claimed duplication in assessment and approval processes is a fallacy; in reality the Commonwealth and the states are recognised to have distinct interests in particular outcomes.
- Claims about the high costs to business are also questionable: an assessment by Economists at Large[1] found numerous flaws in the methodology used by the BCA to estimate costs and failure to consider the benefits of the current EPBC environmental assessment and approval processes in terms of the potential costs from streamlining it.
- The BCA paper also insufficiently links the stated objectives of lowering costs to business, lifting productivity and enhancing competition with the proposed reform – issues that warrant further consideration and costing by policy makers.

Adverse consequences for the state government

The Federal Government needs to be mindful of the risks associated with delegating assessment and approval powers to the states/territories if the current amendment bill is not passed.

- Delegation of approval powers to the states/territories would add considerably to the workload of SA government agencies, including potentially for compliance and enforcement actions under the EPBC Act. Considerable extra resourcing will be required that is not evident given current budget cuts within the public sector in South Australia.
- Further negotiation between the Federal and state governments would be essential to ensure that sufficient resources are guaranteed both now and in the future.
- The state also risks being involved in regular legal challenges currently brought under the EPBC Act regarding determinations and approvals, and similarly increased direct action by community interests who no longer have the "safety valve" of referral of projects to the Commonwealth for decisions.
- State approval of projects will reduce the capacity for cross-border impacts to be effectively and objectively assessed. The Murray Darling dispute is a perfect testament to the risks in leaving decision-making regarding shared environmental assets to individual states, and clearly this is not the only shared asset that SA has an interest in.

Maintaining standards for environmental protection

- It is the view of the NCSSA and other environmental organisations across Australia that development and implementation of best practice environmental laws and standards is fundamental to enable and provide for long-term protection and conservation of our precious natural resources.
- Members of the NCSSA and the broader community reasonably expect their environmental laws to deliver transparency, rigour, opportunities for public comment/appeals/rights to review, compliance and adequate deterrents, and also to vigorously apply the principles of ecologically sustainable development.
- From this perspective the NCSSA supports reforms to the EPBC Act that identify and protect ecosystems of national and state significance through regional environment plans, strategic

[1] Economists at Large (2012) *A response to the Business Council of Australia's Discussion Paper for the COAG Business Advisory Forum: Priority 2 – Streamline environmental assessments and approvals*, prepared for an alliance of Australian environment groups, prepared by Economists at Large, Melbourne, Australia.

assessments or conservation agreements to protect the most significant and healthy ecosystems before they are threatened or degraded.

- The NCSSA is however extremely concerned that while endeavouring to reduce duplication between approval processes the Commonwealth will essentially be removing the vital external checks and balances needed for sustainable, unbiased environmental decision making in South Australia.

- The NCSSA believes that if the current amendment bill is not passed and assessment and approval powers are delegated to the states/territories, it would be most unwise of the Federal Government to accredit the current South Australian *Development Act 1993,* as the objects of this Act are fundamentally different from the objects of the EPBC Act. For example, neither the *Development Act1993*, nor any other South Australian legislation currently contains provisions for adequately protecting threatened species, communities or ecosystems.

- Further to the above point it would also be inappropriate for the Minister for Urban Development and Planning to be the South Australian signatory for this Agreement. If the approval process is transferred, the Society strongly recommends that the Minister for the Environment and Conservation should be the State based signatory. This will ensure that decisions are made with the principles of ecologically sustainable development in mind.