

April 12, 2013

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

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**Re: The Environment Protection and Biodiversity Conservation Amendment Bill 2013.**

Dear Committee,

BirdLife Australia welcomes the opportunity to participate in this inquiry into *The Environment Protection and Biodiversity Conservation Amendment Bill 2013*.

BirdLife Australia is a highly respected, science-based, not-for-profit conservation organisation. With our specialised knowledge and the commitment of our Australia-wide network of 10,000 members, and more than 25,000 volunteers and supporters, we are dedicated to achieving outstanding conservation results for our native birds and their habitats.

BirdLife Australia supports the bill to amend the *Environment Protection and Biodiversity Conservation Act* (EPBC Act).

Management of Australia's water resources is a matter of national significance and BirdLife Australia therefore welcomes amendment of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) to ensure that Australian water resources are afforded a greater level of statutory protection under the Act.

Importantly, federal oversight over developments that are likely to affect **matters of national environmental significance** (MNES) provides critical protection for Australia's most important environmental assets.

Commonwealth oversight of MNES is vital for the following reasons:

- Only the Commonwealth Government can provide national leadership on national environmental issues;
- The Commonwealth must ensure that we meet our international obligations;
- State and Territory environmental laws are not up to standard;

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- States fail to administer and enforce their own environmental laws;
- States are not mandated to act (and do not act) in the national interest;
- States directly benefit from the projects they are assessing.

History has shown us that state governments do not assess development proposals with the national interest in mind. States are inherently conflicted because they usually directly benefit from the projects they are assessing through royalties and political gain. When it comes to mining and major infrastructure projects states are more likely to prioritise short-term profits and political interests over the environment.

### **Some examples of where Commonwealth oversight have protected Australia's MNES:**

In 2007 the Federal government refused an application to release water from Lake Crescent in Tasmania, for irrigation purposes. The release would have impacted a Ramsar site and the globally endangered golden galaxia (a fish). **The Tasmanian government**, a direct proponent of the project, referred it again in 2008. In this instance the Federal government said up front at referral stage that the project was 'clearly unacceptable' and that they were not even going to assess it.

*Our national environment laws ensure that the environmental effects of development are also mitigated.*

In 2009, the **Northern Territory government assessed** a proposal to divert the McArthur River 5.5 kilometres east to allow for open-cut mining. The Federal Government's approval resulted in important additional environmental conditions to mitigate the effects on migratory birds and the nationally listed freshwater sawfish.

*Any person concerned by a development can use national environment laws to hold governments to account.*

In 2002, a massive dam was proposed for the Dawson River in central Queensland, directly inland from the Great Barrier Reef. The dam would have generated cotton farming, creating chemical runoff that would have polluted the Great Barrier Reef. The **Queensland government supported** the proposal and the Federal minister decided only to assess the direct impacts of constructing the dam, not the resulting agriculture. Conservation groups challenged this in the Federal Court under national environment laws and the court found the minister had misinterpreted the Act. The minister announced he would consider the impacts of the agriculture on the Great Barrier Reef, resulting in the proponent withdrawing it's application.

### **Public participation and the Australian Communities right to be involved in decisions affecting Matters of National Environmental Significance.**

Handing final decision making powers to the states would remove the community's right to be informed of, and participate in, decision-making processes that affect



environmental matters that are important to all Australians. Places like the Great Barrier Reef and species like the endangered swift parrot (that breeds in Tasmania, but winters in NSW, the ACT and Victoria), belong to all Australians, and all Australians should all be able to have a say in what affects it at the national level.

Australians overwhelmingly oppose the hand over of federal environmental powers to the states: 85 per cent of Australians believe the Federal Government should be able to block or make changes to major projects that could damage the environment<sup>1</sup>.

BirdLife Australia support the addition of a new 'water trigger' under the EPBC Act, so that the Federal Environment Minister has the final say on any action that is likely to have a significant impact on water resources. Given the importance of Commonwealth oversight we support removal of approval bilateral provisions for **all** MNES.

Yours sincerely,

Samantha Vine

Head of Conservation

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<sup>1</sup> Polling released in November 2012 conducted by Lonergan Research