HUMANE SOCIETY INTERNATIONAL

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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

30 May 2014

Dear [redacted]

Re: Senate inquiry on the *Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014* and the *Environment Protection and Biodiversity Conservation Amendment (Cost Recovery) Bill 2014*

Humane Society International (HSI), the world's largest conservation and animal welfare organisation, welcomes the opportunity to provide this submission to the Senate inquiry into the *Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014* and the *Environment Protection and Biodiversity Conservation Amendment (Cost Recovery) Bill 2014*, on behalf of our 60,000 Australian supporters. For the purposes of this submission we will focus only on the *Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014* (the Bill).

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. As a result of this longstanding interest, HSI has actively engaged in the processes underway including contributing to the Hawke review of the EPBC Act in recent years.

The recent proposals to delegate environmental 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 '*Places You Love'* campaign alliance, which now consists of more than 40 groups united in our aim to rally against the establishment of 'one-stop-shops'. HSI continues to play an active role in the Places You Love alliance.

In this submission HSI seeks to outline the reasons why we consider that the delegation of environmental approval powers is not appropriate and will likely result in a lowering of environmental standards.

Delegation of 'water trigger'
HSI has previously strongly supported the addition of a ninth Matter of National Environmental Significance (MNES), a 'water trigger' under the EPBC Act, and the subsequent amendments proposed and adopted, which sought to ensure that any approval bilateral agreements agreed in

the future would not apply to this new MNES. This meant that approval powers for the water trigger would not be handed over to State and Territory governments. In light of this position, HSI holds significant concerns over the Bill and its proposal to allow the accreditation of State and Territory Governments for approval decisions on large coal mining and coal seam gas developments that are likely to have a significant impact on a water resource. HSI considers this a significant and detrimental policy shift.

Delegation of environmental approval powers will set Australia's conservation efforts back decades
HSI believes that the proposed reforms to delegate environmental approval powers to State and Territory governments will result in a setback to decades of progress towards the conservation of threatened species and ecological communities, threatening commitments Australia has made at the international level. We remain concerned that if approval powers under the EPBC Act are delegated to State and Territory governments it will have detrimental impacts on the conservation status of many threatened species and ecological communities, and important gains in environmental regulation will be wound back.

The content of the Bill also causes us further concern, in that processes reflected in state policies and guidelines rather than laws may be accredited. This gives rise to further concerns that these processes are not subject to public or parliamentary oversight.

Furthermore the proposed amendments contained in the Bill, which state that bodies other than State or Territory government agencies (such as local governments and advisory panels) can be accredited to approve actions that will impact on MNES, give rise to further concerns that decisions on nationally protected places and wildlife will be made from a local, not the necessary national, perspective.

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 also difficult to imagine how timely reporting would be achieved if these roles were delegated, either fully or partially. HSI considers that the accreditation of state processes and government agencies or local councils as noted above compounds these concerns further, and we question how this allows high environmental standards to be met or maintained and how Australia can possibly deliver on international commitments.

National environmental issues need national leadership
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. Our most threatened species and ecological communities 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. Given the biodiversity decline, significant funding will also be needed to fund the schemes to reverse this decline. It is HSI's opinion that the delegation of environmental approval powers is a withdrawal from its current environmental responsibilities, at a time when the Federal government should be strengthening and broadening its capacity to drive conservation decision-making.

Duplication is minimal
HSI notes the 2013 Senate Committee finding[1] that federal-state duplication is minimal and that environmental standards would be put at risk if federal approval powers were delegated to the states. HSI supports this position, which is further reinforced in the December 2012 report which the Places You Love alliance commissioned ANEDO to prepare[2]. ANEDO were asked to undertake an audit of threatened species and planning laws in all Australian jurisdictions. The key finding of this report is that "*no State or Territory biodiversity or planning laws currently meet the suite of*

[1] Senate Environment and Communications Committee, Report on the *EPBC Amendment (Retaining Federal Powers) Bill 2013.*
[2] ANEDO Report - Protect the laws that protect the places you love: An assessment of the adequacy of threatened species & planning laws in all jurisdictions of Australia, December 2012
http://www.edonsw.org.au/anedo_report_protect_the_laws_that_protect_the_places_you_love_an_assessment_of_the_adequacy_of_threatened_species_planning_laws_in_all_jurisdictions_of_australia

federal environmental standards necessary to effectively and efficiently protect biodiversity." HSI considers that the role of the Commonwealth with regard to MNES is not duplication as characterised by some, but necessary protection for these MNES. In light of the outcomes of this report HSI also questions how high environmental standards can be maintained.

Inherent conflict of interests
State and local governments are by their very nature unsuited to assess development proposals *in the national interest*. They are conflicted by the short-term gains of jobs and royalties that development often promises and, at times, state governments themselves act as the direct proponents of projects. Assessing major projects in the national interest requires a broader long-term view that can put these short-term gains in context. Approval at a Federal level adds a much needed layer of protection and safeguards for the environment in these instances.

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. We therefore have zero confidence that environmental standards and safeguards will be maintained if approval decisions are delegated to state governments. 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.

Need to focus also on state processes
State approval processes are also lengthy processes, yet all focus to date has been the reform of federal approval processes. Our nation's long-term environmental health and ecological stability and sustainability ***is a matter that must be controlled at a national level.*** Delegating the federal decision making powers to the states risks irretrievable environmental degradation. HSI believes further examination of State approval processes may also be necessary.

In conclusion, HSI believes it will never be appropriate for the Federal government to delegate their federal approval powers to the States and will likely impact negatively on Australia's national and international biodiversity conservation commitments.

Yours sincerely

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