# Submission to the Senate Inquiry - Environment Protection and Biodiversity Conservation Amendment (Retaining Federal Approval Powers) Bill 2012

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I am in favour of Senator Waters's bill being enacted in its original form, because the Environment Protection and Biodiversity Conservation (EPBC) Act should be retained as the overarching environmental legislation in Australia.

Whereas the Commonwealth Government is responsible for assuring compliance with various international treaties such as the Convention for the Protection of the World Cultural and Natural Heritage 1975, the Convention on Wetlands of International Importance especially as Waterfowl Habitat 1975, the Convention on Biological Diversity 1992, the Japan-Australia and China-Australia Migratory Bird Agreements, the (Bonn) Convention on the Conservation of Migratory Species of Wild Animals, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora 1976, State governments are under no such obligations.

The conservation and environmental protection provisions of such Commonwealth-State Agreements as various Regional Forestry Agreements may or may not be respected; as described by ANU Fenner School Professor David Lindenmayer in his 17 January 2013 'The Conversation' article (http://theconversation.edu.au/victorian-forestry-is-definitely-not-ecologically-sustainable-11392; pdf accompanying this submission in this email) "Victorian forestry is definitely not ecologically sustainable", the pertinent provisions are not being respected.

State governments are often project proponents, as occurred with the proposed Dam at Traveston Crossing on Queensland's Mary River. In that

case, the State's Coordinator-General approved the proponent's Environmental Impact Statement and hence the project, albeit with over 1500 conditions. However, the project was denied approval by the Federal Minister under the EPBC Act, and did not proceed, which also shows that States may approve actions that do not comply with the EPBC and hence with Australia's treaty obligations.

Since then, there have been major changes in Queensland's own planning and assessment laws and procedures, particularly in the "fast-tracking' of major state-owned projects. This has decreased the rigour of environmental assessments, and reduced or eliminated opportunity for public comment and removal of most of the legal avenues for review of decisions. This is compounded by Queensland Parliament's lack of an upper house to review decisions made in the lower house, or to review Queensland Government's extensive use of its State Development Act. This Act is administered by the unelected government position of Coordinator-General (unique to Queensland), a position with a history of direct political appointments and no provision of no judicial review of decisions.

Another case is the proposed "gas hub" at James Price Point on Western Australia's (WA's) Kimberley coast, proposed to liquefy natural gas piped ashore from North-West Shelf gas rigs. The environmental approval for this project by the Western Australian Government (now considered by Minister Tony Burke under the EPBC Act) is the topic of University of Melbourne PhD candidate Malcolm Lindsay's 22 August 2012 'The Conversation' article "James Price Point: environmental significance ignored in failed impact assessment" (http://theconversation.edu.au/james-price-point-environmental-significance-ignored-in-failed-impact-assessment-8817, pdf accompanying this submission in this email)

There are alternatives to the James Price Point option, such as piping the gas and oil down to existing facilities in Karratha, or the as-yet undeveloped ship-mounted Floating Liquefied Natural Gas plants that would negate any requirement for gas to be piped ashore at all before export. These are cheaper for the companies and tax payer, and will create fewer environmental and cultural impacts, which would seem to be a win-win situation for all, except that the WA State Government has long wanted a LNG plant onshore at James Price Point, as a 'beach-head' for

industrialising the Kimberley region.

The environmental approval granted by the WA Government may well be compromised by these policy circumstances, demonstrating the need for the independent approval process afforded by Federal administration of the EPBC Act.

The WA government's apparently cavalier approach to project profitability (as shown by its preference for the development of James Price Point in preference to lower cost options) seems replicated by the New South Government's acceptance of the economic case for Whitehaven Coal's Maules Creek project, supplied as an appendix to the Environmental Impact Statement. Many of the fallacies of the presented economic case were readily identified by public interest economics group Economists At Large, and were the subject of Economist At Large director Rod Campbell's 10 January 2013 National Times article, "Facts and fiction from the mining proponents" (http://www.nationaltimes.com.au/opinion/politics/facts-and-fiction-from-the-mining-proponents-20130109-2cgmk.html, , pdf accompanying this submission in this email).

In summary, good governance requires retention of Commonwealth oversight of environmental approvals through the powers under the EPBC Act. At the very least, good governance at the Federal level may to some extent compensate for its apparent absence at the State level.

Yours faithfully

David Arthur

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