January 18th, 2013

To whom it may concern,

Please consider the following as my formal submission to the Environment Protection and Biodiversity Conservation Amendment (Retaining Federal Approval Powers) Bill 2012.

As an environmentalist and filmmaker based in South Australia, I would like to share with you an example of precisely why the State of South Australia (and potentially other jurisdictions) should not be entrusted with the responsibility of complying with the EPBC Act.

I am currently working on a documentary film entitled Cuttlefish Country, which analyses the impacts of human development on the coast and waters of Spencer Gulf. The film's contemporary analysis examines current proposals and their approval pathways, among many other things.

I would like to draw your attention to South Australia's apparent aversion to insisting that developers with major projects in regional areas refer their projects to the EPBC Act. Here are three examples of currently proposed major infrastructure projects and their EPBC referral status which evidence this.

1) Lucky Bay harbor expansion, Eyre Peninsula – $12 million dollar development of new iron ore transhipping operation, loading facilities and freight corridor. Substantially financed by Regional Development Australia. **Not referred.**
2) Port Bonython Fuels Project – construction of $130 million dollar fuel distribution hub near Whyalla. **Not referred.**
3) Centrex Metals' Port Spencer project. **Initially not referred.** I personally brought this project to the attention of DSEWPAC last year, after which the company ultimately referred the project. DSWEPAC then determined the development to be an EPBC Act Controlled Action.

What I have identified in my analysis of development around Spencer Gulf is a trend towards the State expediting developments by use of Section 49 of the state's Development Act (1993) 'Crown Sponsored Development Status'. This also minimises disclosure obligations from the proponent to the public and opportunity for comment. Examples 1) and 2) listed above are perfect examples of this process in action. Despite the opportunity for environmental impact from these development, neither project produced a PER, EIS nor was referred to the EPBC Act.

I would now like to extrapolate on example 3) Centrex Metals' Port Spencer Project (previously known as Sheep Hill). This project admitted the presence and likely presence of a long list of EPBC Act listed species in the vicinity of the project site in their Stage 1 PER documentation. I pointed out the necessity for referral to DSEWPAC who responded affirmatively. Under pressure from DSEWPAC, Centrex Metals referred their project. **Without this pressure from a Federal level, this referral would not have occurred.**

The referral then made the company accept that the project had been cleft into two parts artificially, I believe, to minimise public opposition to the project and buoy investor sentiment. The EPBC Act referral made the company roll Stage 1 and 2 developments together and disclose their plans to construct a desalination plant at the site. Ultimately, two EPBC Act trigger species were listed under the Controlling Action determination- Southern Right Whales and the Fairy Tern... but **this**

conclusion would not have been reached if the EPBC Referral was wholly handled by the State of South Australia, with its conflict of interest in the development's progress.
From my experience in the past few years of monitoring these developments, it would be too great a compromise to weaken the power of objective, external analysis that the current process of EPBC Act assessment allows. It is my firm belief that passing EPBC Act responsibilities back to the states would advantage proponents and their business partners (the States) at an unacceptable cost to the environment and efficacy of current protection measures.

Your sincerely,

Dan Monceaux
Director, Cuttlefish Country
http://cuttlefishcountry.com