

Birds Queensland
(Queensland ornithological Society Inc.)
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Regulatory Reform Taskforce
Department of the Environment
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CANBERRA ACT 2601

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Dear Taskforce members,

**Submission on Draft QLD – Commonwealth Bilateral Approval Agreement
*Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)***

Birds Queensland thanks you for the opportunity to provide comment on the proposed delegation of Commonwealth environmental approval powers to Queensland.

Humanity's future prosperity is dependent on a healthy environment with biodiverse ecological communities. Without biodiversity all ecosystems suffer and the balance of life on earth is lost¹. The capacity to provide future but as yet unanticipated benefits from biodiversity is also lost. It is the Commonwealth Government's responsibility to protect Australia's environment and the species that inhabit it. Protection cannot be offered if it is divided into a patchwork regulatory system. Species and ecosystems cross State boundaries. Migratory birds cross countries and thousands of kilometres.

The Commonwealth government has signed treaties CAMBA, JAMBA and ROKAMBA to protect migratory bird species and has signed the Ramsar Convention to protect wetlands that many birds species inhabit. The Queensland Government supports the development of a casino on the Gold Coast Broadwater in southern Moreton Bay. This Bay is one of Queensland's five Ramsar sites where migratory shorebirds both feed at low tide and roost at high tide. The area needs to be protected. <http://www.waders.org.au/watching-waders/southern-moreton-bay-sites/gold-coast-broadwater/>

The 5,154hectare Caley Valley wetlands at Abbot Point are one of the largest coastal wetlands in Queensland and are tidally and ecologically interconnected with the Great Barrier Reef World Heritage Area. The wetlands support three threatened species as well as migratory shorebirds that can number over 40,000. With the expansion of the Abbot Point Port, associated rail links and industrial development strongly supported by the Queensland Government these wetlands are in danger, with the highest risk being contamination and air pollution. The State Government has not produced a Management Plan for these wetlands.

The Queensland Government has shown no interest in protecting migratory and threatened bird species, being driven by economic development, preferring royalties and income over the national interest. It is therefore unacceptable for the Commonwealth to weaken Queensland's environmental protection by delegating approval decision-making to the State Government. The 'One Stop Shop' notion is for the benefit of miners and developers, many of whom are overseas companies. Surely Australia's unique environment and species need to be considered in an overall coherent manner by one legislative body, most appropriately the Australian Government.

Birds Queensland outlines these key issues for your consideration:

1. **Conflict of interest:** The Queensland Coordinator-General is proposed to be a key approvals decision-maker for major projects. The Qld Coordinator-General would have a conflict of interest between national environmental protection and their main current role of promoting development. A more appropriate Qld delegate for any approvals decision-making is the State Environment Minister.
2. **Inadequate Queensland legislation:** Analysis by the Australian Network of Environmental Defender's Offices demonstrates that Queensland's project assessment legislation proposed to be accredited does not meet the standards necessary for Commonwealth accreditation.

For practical legal enforceability the various EPBC Act decision-making criteria and duties, such as to comply with international treaties such as the World Heritage Convention, need to be required to be each separately and specifically written into the Queensland legislation.

Further, provisions about taking a developer's **environmental record** into account in decision-making and provisions outlawing supply of **false and misleading information by a developer** need to be strengthened in Qld legislation to be the same as the EPBC Act.

3. **Accountability and Enforcement:** I strongly support proposed extended legal standing for community groups for judicial review or open standing for enforcement to be equal to the EPBC Act. Relevant Queensland legislation does not include those provisions, which means legitimate community groups may be unable to take action.
4. **Public Access to information:** It is also important that Queensland is required to have provisions about public access to information in Qld legislation, not just policy. This is a valuable safeguard for the public.
5. **Likelihood of poor enforcement:** What resources will be provided to Queensland to implement bilateral approval responsibilities? The Qld State Government is not resourced to adequately administer Commonwealth laws. Its poor record of enforcement was exposed by the Queensland Audit Office in 2014. The potential cost to the tax-payer where these laws are poorly enforced could quickly outweigh any perceived benefit of delegation of approvals.
6. **Call-in Powers:** The Commonwealth needs power to exercise call-in powers to decide an application not merely before a decision is made by Queensland but within a period after Qld makes a delegated decision. This flexibility is important to ensure Commonwealth oversight.

Birds Queensland urges the Taskforce to recommend against handing Commonwealth responsibility for 'Matters of National Environmental Significance' under the EPBC Act to the Queensland Government. Australia's future prosperity depends on the adoption of a functional, consistent approach to environmental protections that crosses State boundaries.

Yours sincerely,
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1. Jeffrey V. Yule, Robert J. Fournier and Patrick L. Hindmarsh. 2013. Biodiversity, Extinction, and Humanity's Future: The Ecological and Evolutionary Consequences for Human Population and Resource Use. (Attached)