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Senate Standing Committees on Environment and Communications
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**Re: *Environment Protection and Biodiversity Conservation Amendment
(Standing) Bill 2015***

I am writing on behalf of North Queensland Conservation Council (NQCC). NQCC is the Regional Conservation Council covering the area from Bowen to Cardwell and from the Reef to the NT border.

NQCC was established in 1974 and incorporated in 1984 and has a long and active history of being the voice for the environment in the region.

NQCC and, we contend, a large and varied segment of society are appalled by the proposed amendment to the EPBC Act.

First, it puts the government and business above the law. Since 2005, Queensland Courts have had recourse to the *Vexatious Proceedings Act* to protect the Court and the State from litigants who seek to waste the time and resources of the Courts by using them without due cause. This Act has never been used against any environmental group in Queensland.

Second, there is nothing illegal in using the law. The law is there to protect the environment. Restricting its use to those who are physically close to a development that threatens the environment demonstrates a lack of understanding of how the environment works. It is all interlinked and what happens in, for example, one aquifer, is likely to affect another aquifer; what happens to air quality affects many; and what happens to the climate affects us all. Those distant from the 'action' may be deeply affected and must have the right to take legal action for themselves, for others and for the environment. Existing rights to challenge *EPBC Act* approvals are already strictly limited to judicial review rights, with no rights to challenge the merits of an approval, and restricting rights any further would render legal challenges of the most damaging projects almost impossible.

Third, court action is expensive. Individual landholders are unlikely to be able to find the funds to run lengthy and complex court cases. In comparison, those they will face across the table, often mega-rich international companies, have no trouble finding the money and the ability to 'stretch' cases in order to put

additional financial pressure on opponents.

Fourth, legal action is time-consuming. Individual families running farming and grazing properties, for example, just cannot find the time to dedicate to court cases, and cannot be sure that they will be available 'on demand' when the court sets its schedule.

Fifth, environmental groups are experts. Many not-for-profit groups have a long history, and members and supporters who are experts on many aspects of the environment. They are often the 'go-to' people when the government is seeking comment on proposed policies and legislation. They are the obvious groups to take on legal action to protect the environment.

Sixth, if it had not been for environmental groups and their supporters, Australia would by now have lost to exploitation of natural resource the Tarkine River in Tasmania (threatened by dams and logging), the Great Barrier Reef (threatened by mining of reefs in the 1970s), and Fraser Island (threatened by sand mining). The matters protected by the *EPBC Act* are of national and international significance. They are the common heritage of all Australians, and all Australians should have the right to stand up for them.

Seventh, broad community objection rights, including merits appeals, which are not currently available for approvals given under the *EPBC Act*, are an important corruption prevention measure, as decisions that are open to be tested in court are more likely to be made well.

As you would be aware, [A recent review by The Australia Institute](#) has found that of 5,500 developments referred to the Federal Government, only 27 have ever been subject to legal challenge.

Similarly, [a review of the Act undertaken in 2009](#) recommended the Government consider *expanding* the avenues available to the public to challenge the merits of the Minister's decisions under the Act.

If environmental groups are excluded from involvement in environmental cases, what other groups are in jeopardy on other issues? Traditional owners? The mentally ill? Those committed to specific faiths? Gays? Is this starting to sound familiar?

On behalf of NQCC, I urge you to reject this Bill.



Wendy Tubman
Coordinator