

11<sup>th</sup> September 2015

Committee Secretary  
Senate Standing Committees on Environment and Communications  
PO Box 6100  
Parliament House  
Canberra ACT 2600

**Re. Environment Protection and Biodiversity Conservation Amendment (Standing) Bill 2015**

To the Committee Secretary,

Thank you for this opportunity to provide comments on the Environment Protection and Biodiversity Conservation Amendment (Standing) Bill 2015.

The Society for Conservation Biology (Oceania) (SCBO) has more than 300 members, including conservation scientists, policy-makers and managers. Our role is to provide scientific information for management and policy decisions about the long term sustainability and future of ecosystems and their dependent organisms, recognizing the importance of ecosystem services for humanity and based on the best available science.

Yours sincerely,



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SCBO strongly opposes the proposed Bill, which would repeal section 487 of the *Environment Protection and Biodiversity Conservation (EPBC) Act 1999*. Section 487 currently provides standing to individuals and community groups to seek judicial review of decisions under the EPBC Act. Repeal of Section 487 would restrict standing to “whose interests are adversely affected by the decision”. In particular, we do so for three principal reasons which fundamentally recognize sustainability principles, particularly intergenerational equity.

### **1. All Australians are affected by impacts to Matters of National Environmental Significance (MNES)**

Australia’s natural environment, its native animals, birds and plants and the processes that support their viability, are a common pool resource from which all Australians receive benefits regardless of their physical proximity to specific environmental assets. For example, many rivers start thousands of kilometres away up in a catchment and changes to these catchments can have catastrophic impacts on the dependent ecosystems and their services downstream. Further, there is also increasing understanding that pollutants from can affect communities and their environments, distant from point sources.

The EPBC Act covers only a small subset of Australia’s environmental assets: Matters of National Environmental Significance, which include World Heritage Areas, the Great Barrier Reef, Ramsar wetlands and threatened species and ecological communities. The EPBC Act was designed to protect our most nationally and globally important natural assets for all Australians, recognizing the crucial role of a national government.

The Productivity Commission stated in 2013 that “broader standing is warranted” since “the effects of major projects can be felt beyond neighbouring landowners”<sup>1</sup>. It was also noted that “there is a public interest in allowing third parties to bring judicial review applications”.

All Australians should continue to have the right to seek remedy under Section 487 if there is a legitimate concern that a decision on a development would impact on Matters of National Environmental Significance.

### **2. Public participation is already extremely limited in national environmental matters**

There is already extremely limited opportunity for the Australian public to participate in decisions relating to *Matters of National Environmental Significance*.

The Hawke review of the EPBC Act in 2009<sup>2</sup> recommended that standing provisions should be extended, rather than restricted, in order to further promote the sustainability of Australia’s economic development.

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<sup>1</sup> Productivity Commission, *Major Project Development Assessment Processes* (2013), p 274

**3. Repeal of section 487 will likely *increase* project uncertainty and time required to approve developments**

Removal of Section 487 would require standing to be established by the Courts on a case-by-case basis, with reference to the common law. It is therefore highly likely that additional time and resources will be required for the Courts and legal parties to resolve the question of whether an individual or organization has standing in a particular case, before the dispute in question can actually proceed.

SCBO strongly encourages the Senate Standing Committee on Environment to reject the *Environment Protection and Biodiversity Conservation Amendment (Standing) Bill 2015*.

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<sup>2</sup> Commonwealth of Australia (2009). *The Australian Environment Act: Report of the Independent Review of the Environment Protection and Biodiversity Conservation Act 1999 - Final report*.