



Parliament of Australia
The Senate

Senator Larissa Waters

Australian Greens Senator for Queensland



Senator Barnaby Joyce
PO Box 6100
Parliament House
Canberra ACT 2600

8 May 2013

Dear Senator Joyce

Environment Protection and Biodiversity Conservation Amendment Bill 2013

I write to seek the National Party's support for the **enclosed** amendments which I intend to circulate and move when this Government bill comes before the Senate.

This amendment would give landowners and occupiers across Australia the right to say no to coal seam gas and large coal mines on their land.

Using the corporations power under the Constitution, this amendment would stop the federal Environment Minister from approving a coal or coal seam gas project being assessed under our national environment laws unless the Minister was satisfied that the landowner and any occupier of the land had:

- obtained independent advice in relation to the likely impacts of the taking of the action;
- had obtained independent legal advice; and
- had freely given informed consent in relation to the coal or coal seam gas project.

Importantly, this amendment would not change the principle that ownership of minerals rest with the crown. The state will continue to own minerals, however this amendment would give landholders the right to protect their land from the uncertainty of long term impacts on water resources should they decide the risks are simply too great. If governments want to extract the resource, they can still use their acquisition powers to buy out the landholder, so the amendment would not prevent development of these resources at all costs – but it does lift the bar to better protect our agricultural communities.

As stated above, as all coal and coal seam gas projects can be expected to be developed by constitutional corporations there is not Constitutional obstacle to the Commonwealth using that head of power to put in place nationally consistent protection for Australia landholders. We are sadly very confident that if left to state governments our landholders will be without this basic protection for decades to come.



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It is also important to note that this landholder rights requirement is *additional to*, rather a substitute for, the impact assessments that are needed to allow for both on-farm and off farm impacts of coal seam gas and coal projects (on our agricultural communities and the natural environment) to be considered by decision makers.

In addition to allowing landholder the right to deem the risk of coal and coal seam gas is too high, this bill would also greatly strengthen the negotiating position of Australian landholders who chose to negotiate with multinational resource companies about resource development on their land. All too many of Queensland's farmers have been forced to negotiate without having the choice to walk away.

It is clear from recent statements by Mr Abbott that the Coalition is aware of the community outrage across Australia about the grossly inequitable situation all too many Australian farmers currently face when multinational companies come knocking, seeking to develop coal and coal seam gas projects on their land.

This bill is a clear opportunity to deal with this issue, and ensure farmers across Australia have the right to say no.

I trust that you will raise it with your Coalition colleagues, and ensure that the regular rhetoric about landholders' rights is backed up in law. Our farmers have been waiting too long - there's no time to lose.

I look forward to discussing this amendment with you. Please contact my office to arrange a time.

Kind regards,

Senator Larissa Waters
Senator for Queensland

2010-2011-2012-2013

The Parliament of the
Commonwealth of Australia

THE SENATE

DRAFT-IN-CONFIDENCE

This draft is supplied in confidence and should be given appropriate protection.

Environment Protection and Biodiversity Conservation Amendment Bill 2013

(Amendment to be moved by Senator Waters on behalf of the Australian Greens in committee of the whole)

- (1) Schedule 1, page 8 (after line 4), after proposed item 6, insert:

6A After section 131AB

Insert:

131AC Minister must be satisfied that owners and occupiers of land have consented etc.

- (1) This section applies to the taking of an action if a provision of Subdivision FB of Division 1 of Part 3 is a controlling provision for the action.
- (2) The Minister must not approve, for the purposes of the controlling provision, the taking of the action, unless the Minister is satisfied that any owner, and any occupier, of land that would be likely to be affected by the taking of the action:
 - (a) has obtained independent legal advice; and
 - (b) has obtained independent advice in relation to the likely impacts of the taking of the action; and
 - (c) has freely given informed consent in relation to the taking of the action.
[free and informed consent etc. of owners and occupiers of land]