

A critical evaluation of the One-Stop Shop policy



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The Australian Government is establishing what it calls a “One-Stop Shop” for environmental approvals. This principally involves entering approval bilaterals with State and Territory governments to accredit their decisions as satisfying any approval requirements under the Environment Protection and Biodiversity Conservation Act 1999 (Cth). The Federal Environment Minister claims that the One-Stop Shop “will slash red tape and increase jobs and investment, whilst maintaining environmental standards”. Whether the claimed benefits are achievable is an open question and there are serious potential problems with the proposed system. There is remarkably little evidence to support the claim that significant time and costs savings will be achieved by the policy. It also undermines one of the key functions and benefits of the EPBC Act in practice – to provide an appropriate level of oversight for State government decisions.

Introduction

This is an edited extract of a longer article on the One-Stop Shop policy published in the Environmental and Planning Law Journal.¹ The title of this policy has used various combinations of hyphens and capitals since it was announced in 2012 with little consistency. The use of “One-Stop Shop” here reflects the current usage of the Australian Government Department of the Environment.²

The policy principally involves entering approval bilaterals with State and Territory governments to accredit their decisions as satisfying any approval requirements under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act).

In summary, the analysis of the One-Stop Shop policy presented here suggests that:

1. approval bilaterals will severely undermine the Commonwealth’s oversight role;
2. approval bilaterals will have little benefit for efficiency and costs;
3. the “One-Stop Shop” is a misleading rhetorical label only and under it there will still be dozens of major, separate environmental approval systems and hundreds of decision-makers in Australia;
4. the claim that the One-Stop Shop policy will “maintain environmental standards” is vacuous as the decisions to be made by the States and Territories involve highly discretionary value judgments;
5. the One-Stop Shop policy may well create greater uncertainty for government, business and the community than exists under the current system.

Approval bilaterals will severely undermine Commonwealth’s oversight role

Handing approval powers to State governments in approval bilaterals will severely undermine one of the key functions and benefits of the EPBC Act in practice – to provide an appropriate level of oversight on State government-sponsored projects. Commonwealth laws prior to the EPBC Act created a number of direct and indirect federal powers to oversee State government decisions regarding the environment and resource management.³ The EPBC Act made more comprehensive

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¹ McGrath C, “One stop shop for environmental approvals a messy backward step for Australia” (2014) 31 EPLJ 164.

² See the DoE One-Stop Shop website at <http://www.environment.gov.au/topics/about-us/legislation/environment-protection-and-biodiversity-conservation-act-1999/one-stop>

³ See Crommelin M, “Commonwealth Involvement in Environmental Policy: Past, Present and Future” (1987) 4 EPLJ 101.



and direct what can be called a “healthy federal tension” by requiring projects undertaken or supported by State and Territory governments to pass through an independent Commonwealth approval process that is directed towards environmental protection not merely resource development.⁴

While State and Territory governments make many sound decisions that properly balance development and environmental protection, there is no question that this is not always the case. At least in some cases the integrity of the assessment of the impacts of projects undertaken or supported by State and Territory governments have been and continue to be poorly assessed by their own environment departments who dare not stand in the way of politically powerful projects or a government’s overtly pro-development agenda.⁵ The EPBC Act imposes a general tier of federal decision-making that applies to most large-scale projects including dams, roads and mines. State and Territory governments cannot control this process or direct the Commonwealth Environment Minister to approve their pet projects without adequate assessment. The EPBC Act is far from perfect and it is not a panacea to all environmental problems in Australia but it performs an important role in overseeing State and Territory government approvals.

The famous Tasmanian Dam dispute in 1983 was a legal and political watershed for Australia, illustrating the value of Commonwealth intervention in the face of State government support for inappropriate development and the difficulty that the Commonwealth government may have in ‘washing its hands’ of contentious environmental disputes.⁶ The following, more recent case studies further illustrate the importance of Commonwealth oversight of both State government-sponsored and private projects⁷.

Traveston Crossing Dam case study

The refusal of the Traveston Crossing Dam under the EPBC Act in December 2009 provides a compelling example of the importance of retaining Commonwealth approval powers under the EPBC Act. The Queensland Government proposed the dam in 2006 as part of a number of emergency measures while south-east Queensland was in the grip of an extended drought. It was proposed to be constructed by Queensland Water Infrastructure Pty Ltd, a GOC, on the Mary River, to supply water to Brisbane. A strong local and national campaign called “Save the Mary River” was launched to stop the dam and the Coalition parties, then the State Opposition, joined the opposition to the dam.⁸

The dam was referred under the EPBC Act in November 2006 and determined to be a controlled action.⁹ It was assessed under an assessment bilateral by an EIS prepared under the *State Development and Public Works Organisation Act 1971* (Qld) (SDPWO Act). That Act is administered at a State level by the Queensland Coordinator-General, a politically powerful public servant appointed by the State Government. He concluded that the environmental impacts could be adequately addressed and recommended the dam be built.

The Commonwealth Environment Minister at the time, Peter Garrett, was dissatisfied with the Coordinator-General’s assessment and requested independent experts to review the EIS. They found major deficiencies in it. Based on this independent advice he refused the dam due to “unacceptable impacts” on threatened species such as the Mary River cod and Australian lungfish.¹⁰

⁴ McGrath C, “Key concepts of the EPBC Act” (2005) 22 EPLJ 20 at 20.

⁵ See, for example, Christoff P, “Degreening Government in the Garden State: Environment Policy under the Kennett Government, 1992-1997” 15 EPLJ 10 at 30-32.

⁶ Bates G, “The Tasmanian Dam Case and its Significance in Environmental Law” (1984) 1 EPLJ 325 at 337; Peel J and Godden L, “Australian Environmental Management: A ‘Dams’ Story” (2005) 28(3) UNSWLJ 668.

⁷ Six case studies are provided in the full version of this article.

⁸ See the Save the Mary River website at <http://www.savethemaryriver.com/>.

⁹ EPBC Act referral 2006/3150.

¹⁰ Garrett P, “Traveston Dam Gets Final No” (Media Release, 2 December 2009).

The refusal of the dam is an example of good decision-making under the EPBC Act and prevented a project that would have caused serious damage to several threatened species. In a strong criticism of the operation of the EPBC Act generally, Tim Bonyhady suggested this “stands out as the strongest decision made by an Environment Minister in the 10 years of the EPBC Act”.¹¹

Had an approval bilateral been in place at the time when the dam was proposed, it is certain that the Queensland Government would have approved it being built and severe impacts on the listed threatened species would have occurred.

Santos GLNG Project case study

The 2012 Business Council of Australia (BCA) discussion paper that initiated the most recent pushes from the then Gillard Government and the Coalition to enter approval bilaterals provided an example that, while referred to anonymously, appears to be the \$20 billion Santos Gladstone LNG Project (GLNG):¹²

... from a member company [of the BCA] that provides an illustrative example of the complexities of, and double handling in, the government approvals process. The environmental assessment for this major resources project was conducted under Australian Government and state legislation. It took more than two years, involved more than 4,000 meetings, briefings and presentations across interest groups, and resulted in a 12,000-page report. The assessment was advertised widely across Australia for comment and resulted in some 40 submissions. When approved, more than 1,500 conditions – 1,200 from the state and 300 from the Commonwealth – were imposed. These conditions have a further 8,000 sub-conditions attached to them. In total, the company invested more than \$25 million in the environmental impact assessment.¹³

The GLNG project involved a spider’s web of activities requiring multiple State licences for the coal seam gas (CSG) wells, pipelines and LNG hub at Gladstone. It was broken by the proponent into four referrals under the EPBC Act.¹⁴ A total of 309 conditions were imposed under the EPBC Act, including: 74 conditions for the major LNG facility at Gladstone; 56 conditions for the dredging of Gladstone harbour; 112 conditions on the CSG wells; and 67 conditions for a 435 km pipeline joining the wells to the LNG facility.

The example is cited by the BCA because the total number of conditions for the whole series of activities appears to be very large but the example is a misleading one because the “project” is really an interrelated series of very different activities in terms of the environmental impacts. Regulators can hardly be criticised for imposing very different sets of conditions on the CSG wells in central Queensland and the dredging in Gladstone harbour.

The Commonwealth and State approval conditions certainly overlap in places but the Commonwealth conditions focus on protecting MNES whereas the State conditions are general in nature. No clear instance of inconsistency or duplication between the Commonwealth and State conditions are identified by the BCA or the Coalition amongst the conditions for this project.

A former employee of the Queensland Coordinator-General’s Office revealed in an ABC Four Corners investigation that her attempts to raise serious concerns about the lack of information on ground water impacts were overruled, apparently due to pressure to approve the project.¹⁵ The report indicated that the project may be an example of the need for stronger Commonwealth involvement in regulating major projects.

¹¹ Bonyhady T, “Postscript”, pp 273-283, in Bonyhady T and Macintosh A (eds), *Mills, Mines and Other Controversies: The Environmental Assessment of Major Projects* (Federation Press, Sydney, 2010), p 251.

¹² Capital investment based on US\$18.5 billion stated on the GLNG website at <http://www.santoslng.com/the-project.aspx>.

¹³ BCA, “Discussion Paper for the COAG Business Advisory Forum” (BCA, Melbourne, 10 April 2012), pp 6-7, <http://www.bca.com.au/Content/101965.aspx>.

¹⁴ EPBC Act referrals 2008/4057, 2008/4058, 2008/4059 and 2008/4096 (two other referrals, 2008/4060 and 2008/4061, were withdrawn).

¹⁵ Transcript from Carney M and Agius C, “Gas Leak”, ABC Four Corners documentary (1 April 2013), <http://www.abc.net.au/4corners/stories/2013/04/01/3725150.htm>.

Despite recognising in his report evaluating the EIS for the project that he lacked fundamental and critical information to determine groundwater impacts of the massive CSG well areas,¹⁶ the Coordinator-General recommended the GLNG Project be approved.¹⁷

Consequently, while the BCA appears to have used the Santos GLNG project as an example of over-regulation, it would seem to be an example showing the need for careful oversight by the Commonwealth of such major projects, including groundwater impacts.

Approval bilaterals will have little benefit for efficiency and costs

In addition to the importance of retaining Commonwealth oversight, the One-Stop Shop policy can be criticised for overblown claims that it will improve efficiency and reduce costs.

While recognising that some projects experience significant costs and delays due to the EPBC Act, in evaluating the extent to which the One-Stop Shop policy will reduce such costs and delays it must be born in mind exactly what the policy proposes to do. Through approval bilaterals, the Commonwealth will accredit State and Territory decisions to satisfy any approval requirements under the EPBC Act. The policy does not propose to repeal or amend the EPBC Act to reduce the matters of national environmental significance (MNES) that must be considered. Rather, the approval bilaterals will accredit processes that closely mirror the EPBC Act process, including public notification.

With the exception of some marginal improvements through increased cooperation and increased use of assessment bilaterals, it is difficult to see where significant time and costs savings will be achieved by the policy. The current system of screening referrals and assessment bilaterals is largely avoiding unnecessary duplication and there appears to be little benefit from approval bilaterals in terms of reducing the delay and cost of approvals for projects around Australia.

The initial screening of referrals by the Commonwealth under ss 74B, 75 and 77A in Pt 7 of the EPBC Act as alternatively: clearly unacceptable; controlled actions; not controlled actions; or not controlled actions if taken in a particular manner, is a very efficient way of quickly disposing of actions that do not require further approval.¹⁸ The majority of referrals are decided within a few weeks of being made, with only the 22% of referrals that are determined to be controlled actions that proceed through the assessment and approval stages.¹⁹

Now that assessment bilaterals are in place for the States and Territories, many projects, particularly large ones, are assessed concurrently under the EPBC Act and State and Territory laws. There may be very little, if any, actual delay in approvals being granted due to the EPBC Act. For example, the Wandoan mine proposed by XStrata Coal in Queensland was referred under the EPBC Act in June 2008, and received approval in March 2011.²⁰ In contrast, the mine began its approval process under State laws in May 2007, and has yet to receive all necessary approvals. State approvals have been subject to a merits review hearing in the Land Court of Queensland²¹ and a judicial review challenge by neighbouring landholders. In contrast, there were no court hearings regarding the EPBC Act approval for the mine.

¹⁶ Coordinator-General, Coordinator-General's Evaluation Report for an Environmental Impact Statement Gladstone Liquefied Natural Gas—GLNG Project under Part 4 of the State Development and Public Works Organisation Act 1971 (Coordinator-General, Brisbane, May 2010), s 7.2, <http://www.dsdp.qld.gov.au/assessments-and-approvals/gladstone-liquefied-natural-gas.html>

¹⁷ Coordinator-General, n 16.

¹⁸ McGrath, n 1, pp 183-184.

¹⁹ Ibid.

²⁰ EPBC referral 2008/4284.

²¹ See *Xstrata Coal Queensland Pty Ltd & Ors v Friends of the Earth - Brisbane Co-Op Ltd & Ors* [2012] QLC 013. The author acted as a barrister for one of the objectors in that case.

While some projects, such as the Gunns Pulp Mill²², incur significant costs and delays under the EPBC Act, many of the projects also demonstrate important outcomes being achieved under the EPBC Act.

Surveys of proponents indicating significant costs and delays should be treated with caution,²³ but are useful in understanding the costs and delays associated with the EPBC Act and, from that, where improvements in efficiency might be found.

While the EPBC Act adds to the costs and delays for some projects, there are also cases where the Act has substantially increased the efficiency and reduced the time in the approval process.

Shoalwater Bay rail and port case study

On 31 July 2008, Waratah Coal Inc referred a proposal for a large open-cut coal mine in the Galilee Basin and associated infrastructure, including a 495 km railway to a proposed new coal terminal to be constructed in the Shoalwater Bay and Corio Bay Ramsar Wetland in central Queensland.²⁴ The investment for the mine was reported to total \$5.3 billion.²⁵ The company claimed that the project would have “potentially generated over A\$10B of export revenue and over A\$900M royalties per year for the State of Queensland”.²⁶

The new coal export terminal was proposed to be located in an undeveloped part of the Queensland coast that was inscribed on the Ramsar List due to its importance for migratory birds. It was midway between two existing major coal export ports on the Queensland coast. The company claimed the existing ports were at capacity and could not accommodate the large additional quantities from its mine.²⁷

On 15 September 2008, the then Federal Environment Minister, Peter Garrett, rejected the proposal under s 74B of the EPBC Act on the basis that it “would have clearly unacceptable impacts” on the Ramsar wetland.²⁸ The Minister stressed in a media release that he “wish[ed] to make it abundantly clear” that his decision was due to the impacts of the rail and port and his decision “does not prevent an alternative proposal being lodged [with] alternative sites for the port”.²⁹

The company subsequently lodged another referral for the mine proposing to export the coal from the existing Abbot Bay coal terminal to the north.³⁰

The Shoalwater Bay rail and port case study shows a quick and efficient decision being reached at a very early stage under the EPBC Act that avoided the proponent needing to undertake a full and expensive EIS for the project. A full EIS would have been expected to take a number of years and cost millions of dollars to complete. The early decision by the Commonwealth Environment Minister under s 74B of the EPBC Act short-circuited this lengthy process and thereby avoided these costs and delays. The Minister would not have had such a role if an approval bilateral had been in place. Unlike the power in s 74B of the EPBC Act to refuse a project at an early stage, there is no formal power under Queensland law for such a decision to be made.

Lack of evidence that the One-Stop Shop will reduce costs and delays

A curious inconsistency overlooked by those who argue in favour of approval bilaterals is that proponents would still have to consider impacts on matters protected under Pt 3 of the EPBC Act. Only the decision-maker would change. Given that assessment bilaterals are already in place and

²² A case study for this project is provided by McGrath, n 1.

²³ See, eg, Macintosh, *The EPBC Act Survey Project: Preliminary Data Report* (Australian National University, Canberra, 2009), p 15.

²⁴ EPBC Act referral 2008/4366.

²⁵ ABC News, “Waratah to Challenge Garrett’s Shoalwater Ruling”, ABC News online (6 September 2008).

²⁶ Waratah Coal, “Response to Federal Minister for the Environment” (Media Release, 5 September 2008).

²⁷ Waratah Coal referral of proposed action form (EPBC Act referral 2008/436), p 14.

²⁸ Garrett P, “Statement of Reasons for a Decision that the Action is Clearly Unacceptable under the EPBC Act” (DEWHA, Canberra, 5 September 2008).

²⁹ Garrett P, “Minister says No to Shoalwater Bay Rail and Port” (Media Release, 5 September 2008).

³⁰ EPBC Act referrals 2008/4366 and 2012/6250.

already allow EPBC Act matters to be incorporated into one assessment process, there do not appear to be any real savings for proponents if approval bilaterals are created.

A feature of the reviews of the EPBC Act and submissions from industry groups calling for approval bilaterals is the general lack of evidence showing inefficiency caused by the Act that approval bilaterals will reduce. Even the Hawke Review and Productivity Commission presented little evidence to support their recommendations for approval bilaterals.³¹

In its 2012 discussion paper arguing for approval bilaterals to be entered to accredit all State governments to approve actions under the EPBC Act, the BCA stated:

The costs and delays associated with environmental impact assessments are significant. An Australian National University study estimated a direct cost to all industries of up to \$820 million over the life of the EPBC Act.³² Further, the referrals process under the EPBC Act is resource and cost-intensive, with referrals ranging from \$30,000 to \$100,000.³³ But even these costs pale in comparison to the potential costs of delays. For instance, at a coking coal price of \$200 tonne, a 12-month delay to a 10 million tonne per annum export coking coal mine in Queensland could reduce Queensland royalty revenue by \$170 million.³⁴

The Commonwealth's rejection of the Traveston Crossing Dam project in Queensland, following Queensland Government conditional approval of the project, highlights the need to develop a structured approach to environmental impact assessments and the need to accredit state approvals. The Traveston Crossing Dam project was subject to a comprehensive state environmental impact assessment – the whole process took a number of years to complete. The project was approved to proceed at the state level with conditions designed to protect the environment. The Commonwealth minister subsequently vetoed the project under the EPBC Act.³⁵

The BCA's use of the refusal of the Traveston Crossing Dam by the Commonwealth unintentionally highlights the contradiction and central problem with their proposal – that, if State governments are granted approval powers under the EPBC Act, State government projects that should not proceed will be approved.

The BCA's example of the potential costs of delays is also flawed. For one thing, a delay in approval would not mean that royalties of \$170 million were "reduced" in the sense of being lost forever.³⁶ A delay would merely delay the royalties being paid.

The ANU study of proponents referred to³⁷ found significant costs and delays for some projects due to the EPBC Act. As noted earlier, the survey is useful but needs to be treated with caution. For instance, while finding that some proponents claimed the costs and delay of the EPBC Act amounted to losses of over \$500,000, it did not place these costs in the context of the overall project scale. Depending on what is achieved, a cost of over \$500,000 is perhaps an efficient and expected result for a huge project like the \$20 billion Santos GLNG project. It is unclear from the survey what, if any, costs and delay will be avoided under the One-Stop Shop policy.

Misunderstanding the relative scale of Commonwealth approvals

Claims such as the One-Stop Shop "will slash red tape" misunderstand the scale of Commonwealth approvals in comparison to State and Territory approval requirements. State, Territory and local

³¹ Hawke A, *The Australian Environment Act: Final Report of the Independent Review of the Environment Protection and Biodiversity Conservation Act 1999* (DEWHA, Canberra, 2009); and Productivity Commission, *Major Project Development Assessment Processes* (Productivity Commission, Canberra, 2013), <http://www.pc.gov.au/projects/study/major-projects>.

³² Macintosh A, "The EPBC Act: An Evaluation of its Cost-effectiveness" (2009) 26 EPLJ 337; and Macintosh, n 23.

³³ Productivity Commission, *Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments* (Melbourne, 2011).

³⁴ BCA calculation based on a Queensland royalty rate of 7% of value up to \$100 million and 10% value above \$100 million.

³⁵ BCA, n 13, p 6.

³⁶ An argument about some loss of net present value may be valid, but that is not what the BCA argued.

³⁷ Macintosh, n 23.

government approvals are far more numerous than EPBC Act approvals. These requirements are typically far more extensive, costly and time-consuming than those imposed by the EPBC Act.

The number of projects assessed under EPBC Act is miniscule in comparison to State and Territory planning and mining laws.³⁸ The importance of the EPBC Act as an over-arching environmental framework for Australia needs to be tempered with recognition that it is State and Territory planning, mining and petroleum laws where the bulk of detailed controls on land-use and resource management reside.

The One-Stop Shop policy will, at best, only very marginally reduce approval requirements for Australian industry and development. The claims that this is a major simplification or major increase in efficiency are hyperbole.

The One-Stop Shop label is misleading rhetoric only

The One-Stop Shop policy is also a misleading rhetorical label. There will be no, one “shop” with a single national, State or Territory process and single national, State or Territory regulator to assess projects. The One-Stop Shop policy will not change the fact that there are multiple approval requirements at a State and Territory level that are not proposed to be rolled into one application process. For projects that require approval by local governments and do not require approval under the EPBC Act, there will still be literally hundreds of decision-makers in Australia. The “One-Stop Shop” label can be seen as political rhetoric only. In practice, rather than a One-Stop Shop, the policy will be more like a shopping mall.³⁹

The claim that the One-Stop Shop will “maintain environmental standards” is vacuous

The Coalition and the Federal Environment Minister have repeatedly claimed that the One-Stop Shop will “maintain environmental standards”. This claim is vacuous as the decisions which States and Territories will be accredited to make are highly discretionary value judgments. The requirements for bilateral agreements in Pt 5 of the EPBC Act, such as accredited management arrangements, authorisation processes, and audits, do not change the highly discretionary nature of any decision to approve an action or impose conditions. This means that the identity of the decision-maker and their values are critical factors in the decision that is reached. Unlike, for example, applying things like building standards that are highly prescriptive and quantifiable, decision-makers under the EPBC Act are required to consider broad qualitative criteria such as “economic and social matters”⁴⁰ and that the decision must not be inconsistent with Australia’s international obligations.⁴¹ Decisions made by a State or Territory government under an approval bilateral will be similar. The weighing-up process inherent in reaching such a decision means that there is no “standard” that is enforceable in any meaningful way.

Approval bilaterals may well create greater uncertainty

Another problem for the One-Stop Shop policy is that it may well create greater uncertainty, a problem that caused the Gillard Government to place the One-Stop Shop process on hold in 2012.⁴²

It appears very likely that not all of the States and Territories will agree to approval bilaterals for all decisions, particularly without the Commonwealth providing funding for any additional workload placed on the State and Territory concerned.

³⁸ See McGrath, n 1, p 165.

³⁹ Thanks to Rachel Walmsley for this metaphor.

⁴⁰ EPBC Act, s 136(1)(b).

⁴¹ See EPBC Act, ss 137, 138, 139 and 140.

⁴² Taylor L and Coorey P, “Bid to Cut Green Tape Bogs Down in Detail”, *Sydney Morning Herald* (6 December 2012).

The first two draft approval bilaterals that have been released, for NSW and Queensland, reflect this problem by creating quite different schemes in the two States and systems that do not cover the vast bulk of State and local government decisions.⁴³

The draft NSW approval bilateral includes some approvals under the *Environmental Planning and Assessment Act 1979* (NSW) in the One-Stop Shop system, but does not include approvals granted by local governments. The NSW Department of Planning and Environment notes that the, “vast majority of development applications in [NSW] are for local and regional development and are assessed by local councils.” The vast majority of NSW planning decisions, therefore, will not be covered by the One-Stop Shop system.

Similarly, in Queensland, only a small part of State government decisions and no local government decisions will be included in the One-Stop Shop system under the draft approval bilateral agreement. The draft agreement only includes major projects (of which there are in the order of 10 each year) and mines assessed under an EIS under State environmental laws. Decisions under the State’s planning laws, the *Sustainable Planning Act 2009* (Qld), are not included in the approval bilateral at all (at least at this stage). This means that the thousands of planning decisions in Queensland each year are not part of the One-Stop Shop system.

Even if the Commonwealth Government enters bilateral agreements with all States and Territories for all MNES, it seems unlikely that the Commonwealth will be able to wipe its hands of hotly contested decisions. A “call in” power for the Commonwealth to deal with such projects on a case-by-case basis will itself complicate the “One-Stop Shop” and create uncertainty.

Conclusion

The EPBC Act should be subject to regular review to make it as efficient, effective and equitable as is practicable. While there are some positives in the One-Stop Shop policy that should reduce costs and delay at the margins, overall it is clear that the policy will weaken the existing system without significant gains in efficiency.

Handing approval powers to State and Territory governments in approval bilaterals would severely undermine one of the key functions and benefits of the EPBC Act in practice – to provide an appropriate level of oversight on State government-sponsored projects. This would undermine the effectiveness of the Act in achieving its objectives. It is also quite possible that the One-Stop Shop policy will create a more complicated system than currently exists rather than simplifying it.

Riding in the background is the political reality that it will be extremely difficult for the Commonwealth Government to attempt to “wash its hands” of contentious environmental disputes.

The One-Stop Shop policy is an attempt to turn back the clock to before the Tasmanian Dam dispute when States generally made the major decisions affecting the environment and the Commonwealth did not interfere. This is a backward step for Australia and likely to be a complicated and messy one in practice.

⁴³ The draft approval bilaterals are available on the DoE website, n 2.