

Objections to the proposal for an environmental 'one stop shop'

The proposal for a 'one stop shop' for environmental approvals threatens biodiversity protection across Australia. Handing Commonwealth power to the States would endanger some of our most sensitive natural areas.

What's wrong with the 'one stop shop' proposal?

Only the Commonwealth has the mandate and willingness to consider the needs of the whole of Australia when approving projects that could affect the environment. A State government has no motivation to put the national interest before its own State interest when approving development within its own State.

We need the Commonwealth to ensure the efficient and effective implementation of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

It is a conflict of interest to allow States to assess and approve State-sponsored development on behalf of the Commonwealth. Would the Victorian Government reject its own election commitment to allow cattle grazing in Alpine national parks? Would the Queensland Government find that its State-endorsed coal expansion plans did not meet federal environmental standards? We can't expect that a government will properly consider matters of national environmental significance when its own financial and political interests are at stake.

An audit of state and territory laws by the Australian Network of Environmental Defender's Offices (ANEDO) clearly shows that no state or territory biodiversity or planning laws currently meet the federal environmental standards necessary to effectively and efficiently protect the environment. Therefore no state or territory can be accredited unless it significantly reforms its laws.

Since the completion of the ANEDO audit, many states and territories have in fact *lowered* their environmental law standards. Such lowering of state standards *increases* the need for Commonwealth protection of the environment. Accreditation of state or territory laws that do not meet minimum requirements:

- puts at risk matters of national environmental significance;
- is inconsistent with our international obligations; and
- creates a significant risk of the Commonwealth being exposed to legal liability.

There is a real danger that States will only lift their standards for matters that fall under the EPBC Act for the purpose of achieving Commonwealth accreditation, rather than lifting standards for all environmental impact assessment in their state. This will produce two completely different assessment processes within each state, creating more bureaucratic confusion and delay. If this occurs it would be a clear demonstration that the real aim of the changes is not efficiency and streamlining, but removing the Commonwealth from environment protection.

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Bilateral assessment agreements with states and territories have been in place for nine years, but the Commonwealth has never audited whether states and territories are complying with them. How will the Commonwealth ensure that federal environment protection standards will be maintained under the 'one stop shop' model? What independent body with the necessary environmental expertise will be appointed to assess this? The Commonwealth has not provided any information on whether it will put in place rigorous oversight to ensure states and territories are meeting federal standards.

Many state environmental laws are currently under review and in transition. For example, the NSW planning legislation is currently being developed and many environmental standards are to be determined by future instruments that will not be finalised by 18 September 2014, when an approval bilateral agreement is already intended to be in place. In order to achieve the Australian Government's aim of 'maintaining high environmental standards', any reform process must be predicated on states and territories having the necessary comprehensive suite of legislated process and outcomes standards in place and operative *before* accreditation can occur.

What must be done?

The Commonwealth must retain its power to protect Australia's environment for the benefit of present and future generations of Australians. Environmental approval powers and monitoring and enforcement powers must be retained by the Commonwealth. There should be no approval bilateral agreement in any state or territory.

The Commonwealth must renegotiate environmental *assessment* agreements in each state and territory and seize this once-in-a-generation opportunity to lift environmental standards across Australia and to produce a more consistent national standard of environment protection.

State and territory environmental impact assessment should only be accredited when it achieves the objectives of the EPBC Act and enshrines best practice environmental standards. These standards should be applied across the board to all environmental impact assessment in each state and territory, not just to Commonwealth-accredited assessments. Further, it is the Commonwealth's responsibility to ensure all assessments are conducted in a manner and to a standard that allows proper understanding of the impacts on nationally significant issues. This must be enshrined in assessment agreements.

Developments that pose a conflict of interest for states – i.e. state-developed projects or where the state has a significant financial interest – must be excluded from assessment agreements and instead continue to be assessed by the Commonwealth. The Commonwealth must also retain power to assess any development itself when it decides it is necessary on environmental protection grounds.

The Australian Government must properly audit state and territory compliance with assessment bilateral agreements throughout the life of the agreements to ensure states and territories are properly fulfilling the challenge of protecting nationally significant environmental matters in the national interest.

About us

The Australian Network of Environmental Defender's Offices is a network of nine public interest environmental law centres across Australia. We are environmental law experts and we assist the community to protect the environment and advocate for better environmental laws.

ANEDO supports a strong Commonwealth role in the protection of Australia's unique biodiversity and heritage.

For more information

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