

IAIA SEA Conference Prague 2005

Stream A: Legislation and Policy

A3: Legal and Policy Framework for SEA in Australia and New Zealand

Session Leader	John Ashe: john.ashe@netspeed.com.au
Focus and approach	<p>The session was organized into three workshops. Each workshop included three presentations followed by questions from the floor to the presenters and open discussion.</p> <p>The presentations were as follows:</p> <p>Workshop A3.1</p> <p>John Ashe: <i>Legal and Policy Framework for SEA in Australia and New Zealand—Introduction.</i></p> <p>Gerard Early: <i>Australian Experience with Strategic Assessment—What You Are Likely to Get Out of It Determines What You Put Into It.</i></p> <p>Simon Marsden: <i>Strategic Environmental Assessment and Protected Area Management in the Sub-Antarctic: Are some Areas better Protected Than Others?</i></p> <p>Workshop A3.2</p> <p>Rachel Brazier: <i>Is there a role for SEA in Queensland?</i></p> <p>Dr Ian McPhail AM: <i>Strategic Audits—Walking the Talk.</i></p> <p>Dr J Morgan Williams: <i>Sustaining Sustainability: NZ Experience Under the Resource Management Act in a Post Earth Summit World.</i></p> <p>Workshop A3.3</p> <p>Professor Jenny Dixon: <i>Overview of SEA in New Zealand: Current Issues and Prospects.</i></p> <p>Martin Ward: <i>SEA in New Zealand—Developing on Two Tracks.</i></p>

	<p>Martin Ward and Tony Brennan: <i>Analysis of New Zealand Land Transport Strategies</i>.</p>
Main trends and issues	<p><i>Australia</i></p> <p>Australia has substantial experience over the last 30 years with SEA-type assessments, especially in relation to the use of natural resources, e.g. forests, fisheries and mineral resources. These assessments have been conducted under a variety of legislative mechanisms, including EIA, land-use planning and public inquiry legislation.</p> <p>Federal EIA legislation now includes discretionary SEA provisions of general application and mandatory provisions for SEA of Commonwealth fisheries. The Act also makes provision for bioregional planning and some studies are underway. To date over 80 Commonwealth fisheries have been strategically assessed under the mandatory provisions, but little use has been made of the discretionary provisions.</p> <p>A recent development at the federal level is the commencement of a number of voluntary, non-statutory regional risk assessments, conducted as joint exercises between the Australian Government and local/regional organisations and focusing on areas of high development pressure.</p> <p>Strategic assessments are required for proposed National Environment Protection Measures. They are also required for country strategy formulation and formulation of policies, programs, plans and regional or sector strategies under Australia's foreign aid program.</p> <p>SEA provisions at the state/territory level vary between jurisdictions and are at differing stages of development, but typically linked to land use planning and/or general EIA provisions. Western Australia has recently amended its EIA legislation to enable assessment of 'strategic proposals', which could include policies, programs and plans.</p> <p><i>New Zealand</i></p> <p>Although there are no formal legislative requirements for SEA in New Zealand, there are many SEA-like processes. These include mechanisms for SEA of national policies and SEA elements within regional and district planning frameworks.</p>

	<p>The Resource Management Act (RMA) (section 32) also requires a form of policy appraisal which is seen by some as a form of SEA.</p> <p>Recent legislation has increased the scope for SEA in New Zealand:</p> <ul style="list-style-type: none"> • Land Transport Management Act 2003 • Local Government Act 2002. <p>Key elements of SEA in the Land Transport Management Act include a sustainability focus in the purpose statement; requirements to ensure early and full consideration of land transport options and alternatives; and the requirement to provide early and full opportunities for public participation. These carry through to the preparation of regional land transport strategies.</p> <p>In interaction with the Resource Management Act, the Local Government Act has provided strengthened opportunities for SEA through the development of strategic planning at the local level (long term council community plans). These opportunities are, however, constrained by the capacity of councils to undertake strategic planning, including a shortage of professionally trained staff and skills.</p> <p>Health impact assessment is also a vehicle for SEA-type assessments of environmental determinants of health, e.g. air quality, water quality and contaminated land.</p> <p>Legislative developments have been reinforced by the development of professional guidance, including SEA training for transport planners and health impact assessment guidance.</p>
Key findings and conclusions	<p><i>Australia</i></p> <p>Although there are many examples of the use of SEA-type assessments in Australia over a long period of time, much of this has been ad hoc in nature, has not used the language of SEA and in some instances may best be characterised as ‘para-SEA’.</p> <p>The mandatory SEA provisions for fisheries at the federal level have been successful and may be contrasted with the limited use of the discretionary provisions intended for more general application. The discretionary provisions are seen</p>

	<p>by some as providing insufficient incentive and payoff to proponents and industry sectors to encourage their involvement in strategic assessment.</p> <p>Australian experience suggests to some that SEA can be extremely successful and that that successful SEA can be mandatory or voluntary. The perceived benefits of SEA determine greatly the willingness of stakeholders to become involved and the nature and quality of inputs to the process.</p> <p>Overall, SEA is being under-utilised in Australia despite the presence of specific SEA legislation.</p> <p><i>New Zealand</i> Despite a lack of formal legislative requirement for SEA in New Zealand, recent legislative and other developments have enhanced the scope for SEA-type assessments, including in relation to local government strategic planning, land transport planning, health impact assessment and the development of national policies.</p> <p>Effective implementation of SEA is, however, dependent on political support at national, regional and local levels and is constrained by capacity and skill shortages in planning and other bodies.</p>
Future directions	<p><i>Australia</i> The Australian Government views strategic assessment of fisheries as being a particularly successful element of the federal legislation but is concerned about the limited use currently being made of the discretionary provisions in the legislation. It is likely that changes will be made to the legislation to encourage greater participation in SEA.</p> <p>The future development of SEA, both at the federal and the state/territory level, is likely to reflect the trend in EIA and other environmental legislation of incorporating sustainability objectives. It is likely that we will see a convergence of SEA and sustainability appraisal in coming years.</p> <p><i>New Zealand</i> It is not expected that there will be changes to legislation to make greater formal statutory provision for SEA. For this reason the future development of SEA is likely to continue to have substantial, informal and ad hoc elements.</p>

	<p>The two clear paths for SEA application are:</p> <ul style="list-style-type: none"> • SEA of central government policy, e.g. transport and health • SEA of local government plans and programs. <p>The Sustainable Development Plan of Action and the group of initiatives known as ‘joined up government’ have led to greater collaboration by central government policy makers and also provide opportunities for SEA initiatives.</p> <p>The Local Government Act 2002, with its requirements for new long term council community plans and focus on community outcomes, similarly provides for good opportunities for collaboration across sectors as well as enhanced opportunities for SEA.</p>
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