



Strategic environmental Assessment in New Zealand: Enhancing Policies and Plans
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Strategic environmental assessment: What is it and what makes it effective?

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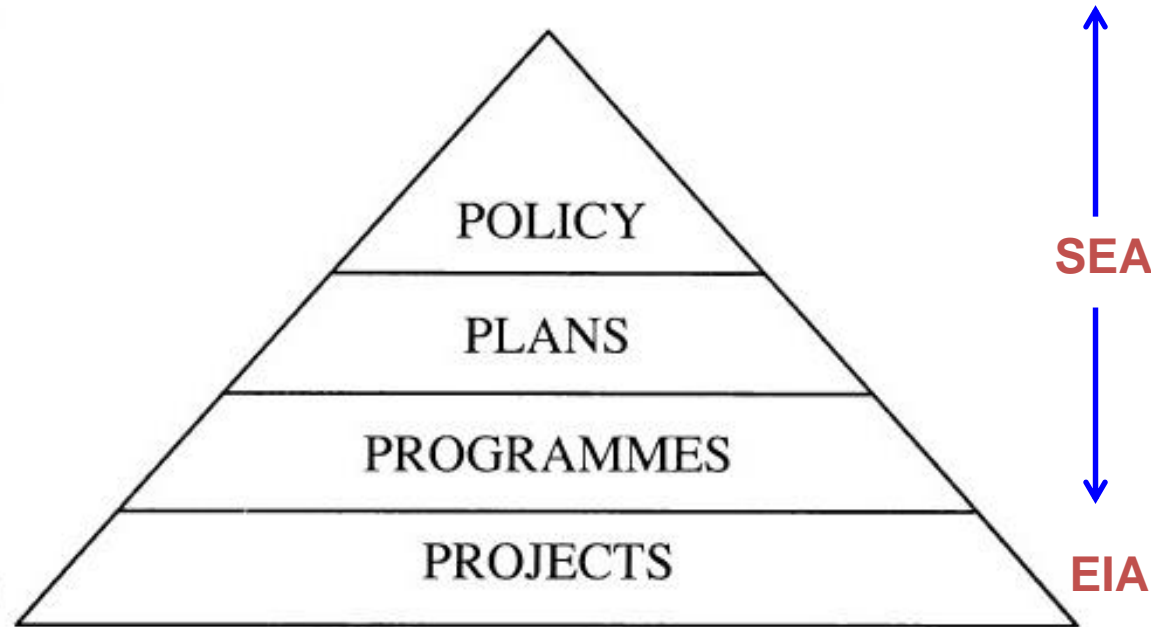
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Cambridge Institute for Sustainability Leadership, UK

Presentation overview

- The concept of SEA
- International SEA practice
- Debates within the SEA discourse
- Effectiveness of SEA
- Case study: the proposed Browse LNG Precinct at James Price Point, Western Australia

The concept of strategic environmental assessment (SEA)



Status of international SEA Practice

- Some form of SEA currently in place in 60 countries (formal & informal)
- Most successfully applied in land-use planning
- Key drivers:
 - EU SEA Directive
 - World Bank, OECD requirements
 - SEA Protocol to the UNECE Espoo Convention on Environmental Impact Assessment in a Transboundary Context



EU SEA Directive



- In force since 2001
- Member states required to have appropriate legal frameworks by 2004
- Applies to public plans and programmes (not policies)
- Mandatory for agriculture, forestry, fisheries, energy, industry, transport, waste/ water management, telecommunications, tourism, town & country planning or land use
- In England, combined with sustainability appraisal of local government development plans

Evolving definitions of SEA

- “the **formalized, systematic and comprehensive** process of evaluating the **environmental impacts** of a policy, plan or programme and its alternatives, including the preparation of a **written report** of the findings of that evaluation”
 - Therivel et al. 1992, 919-20
- “is a process that aims to **integrate environmental and sustainability considerations** in strategic decision-making”
 - Therivel 2010, p3



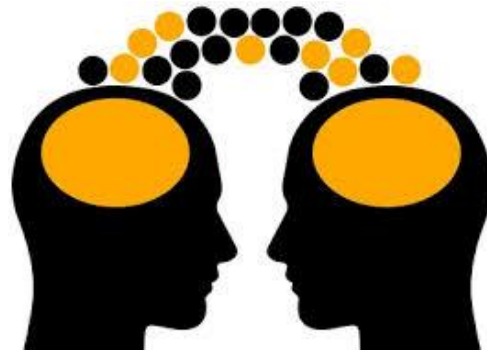
SEA's identity crisis

- Do we need SEA as a separate tool from EIA at all?
- If so, how is it different?
- What does strategic mean?



Points of agreement (on a good day)

- SEA refers to impact assessment applied to policies, plans and programmes (PPPs)
 - i.e. decision-making at a higher level than projects
- SEA is an overarching concept or family of approaches rather than a defined technique



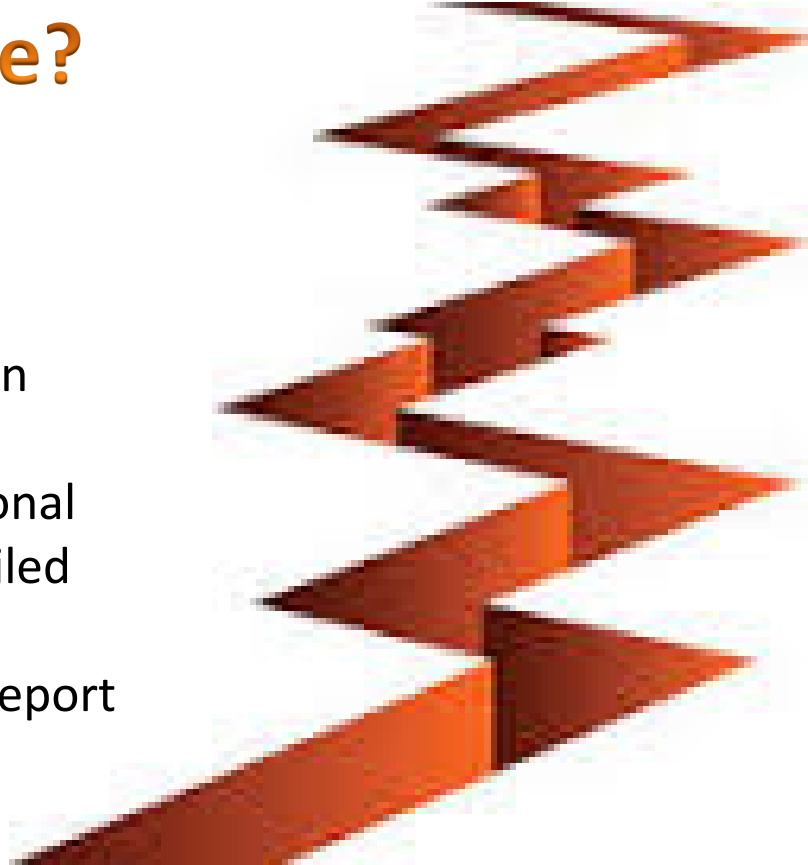
The process debate

EIA writ large?

- Reactive
- Distinct from planning
- Baseline-driven (bottom up)
- Technical-rational
- Requires detailed data
- Emphasis on report

Something else?

- Strategic
- Integrated with planning
- Objectives-led (top down)
- Communicative
- Requires high level information
- Emphasis on process



The goal debate

Environmental
protection?



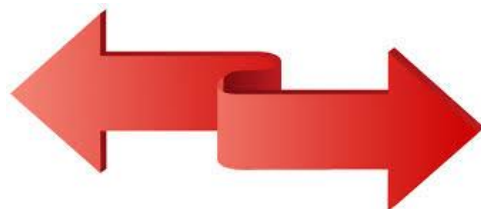
Sustainable
development?

Marsden (2002); Morrison-Saunders & Fischer (2006)

Relationship with project-level EIA

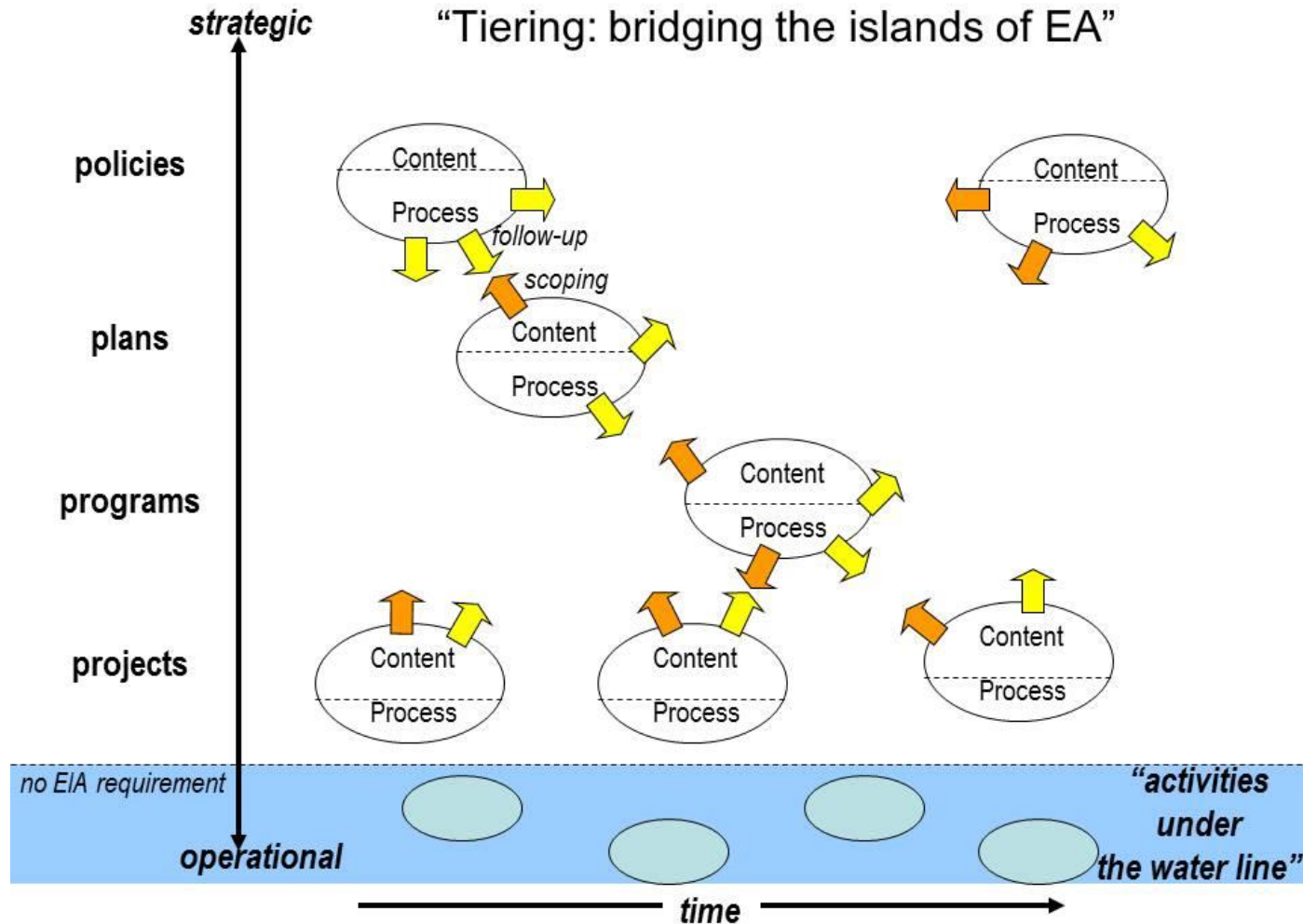


Trickle-down



Evaporate up

Closer to reality?



Isolated islands of assessment in a sea of decisions

The effectiveness of SEA

- Is it doing what its supposed to do?
- Begs the question of what exactly it is supposed to do:
 - Substantive effectiveness
- Long term assumption that good process leads to good outcomes (however defined):
 - Procedural effectiveness

IAIA SEA Performance Criteria

<http://www.iaia.org/uploads/pdf/sp1.pdf>

<p>January 2002 IAIA</p> <p>Special Publication Series No. 1</p>	<p>STRATEGIC ENVIRONMENTAL ASSESSMENT Performance Criteria</p>
<p>PURPOSE</p> <ul style="list-style-type: none"> The main intention is to provide general guidance on how to build effective SEA processes and evaluate the effectiveness of existing SEA processes. <p>BACKGROUND</p> <ul style="list-style-type: none"> SEA increasingly becomes a "hot" issue, and IAA might be possible a professional practice for the subject in various countries. The set of criteria was developed by the Network of the National IAA Centres in consultation with members of the IAA SEA Section and through a national special workshop held in 1998, 1999, and 2000 during the IAA annual conference. <p>CONSULTATION PROCESS</p> <ul style="list-style-type: none"> The document is the result of an ongoing dialogue over a three-year period by members of the IAA Section, including the External and Internal IAA annual conferences. The SEA performance criteria have been used and tested in practice by a number of IAA members and recommended by the IAA Board of Directors in November 2002. <p>INTERNATIONAL ASSOCIATION for IMPACT ASSESSMENT</p> <ul style="list-style-type: none"> Headquarters: 120524-50000 SEA, Suite C, Hayes, NY 50003 USA Phone +1 202 2877000 Fax +1 202 2877007 info@iaia.org www.iaia.org 	<p>A good quality Strategic Environmental Assessment (SEA) process informs planners, decision makers and affected public on the sustainability of strategic decisions, facilitates the search for the best alternative and ensures a democratic decision making process. This enhances the credibility of decisions and leads to more cost- and time-effective EA at the project level. For this purpose, a good quality SEA process:</p> <ul style="list-style-type: none"> Is integrated <ul style="list-style-type: none"> Ensures an appropriate environmental assessment of all strategic decisions relevant for the achievement of sustainable development. Addresses the interrelationships of biophysical, social and economic aspects. Is linked to policies in relevant sectors and (transboundary) regions and, where appropriate, to project EA and decision making. Is sustainability-led <ul style="list-style-type: none"> Facilitates identification of development options and alternative proposals that are more sustainable¹. Is focused <ul style="list-style-type: none"> Provides sufficient, reliable and usable information for development planning and decision making. Concentrates on key issues of sustainable development. Is customized to the characteristics of the decision making process. Is cost- and time-effective. Is accountable <ul style="list-style-type: none"> Is the responsibility of the leading agency for the strategic decision to be taken. Is carried out with professionalism, rigor, fairness, impartiality and balance. Is subject to independent checks and verification. Documents and justifies how sustainability issues were taken into account in decision making. Is participative <ul style="list-style-type: none"> Informs and involves interested and affected public and government bodies throughout the decision making process. Explicitly addresses their inputs and concerns in documentation and decision making. Uses clear, easily understood information requirements and ensures sufficient access to all relevant information. Is iterative <ul style="list-style-type: none"> Ensures availability of the assessment results early enough to influence the decision making process and inspire future planning. Provides sufficient information on the actual impacts of implementing a strategic decision, to judge whether this decision should be amended and to provide a basis for future decisions. <p><small>¹ I.e., that contributes to the overall sustainable development strategy as laid down in the 1982 and defined in the specific policies or values of a country.</small></p>

Mostly procedural:
Have appropriate processes been followed that reflect institutional and professional standards and procedures?

Bond et al. (2015)

Substantive effectiveness: outcomes

- *In what ways, and to what extent does [SEA] lead to changes in process, actions, or outcomes?*
- **Direct** outcomes (information processing model):
 - Changes in decision-makers' awareness of environmental/sustainability issues
 - Consideration of these issues in decision-making
 - Mitigation strategies
- **Indirect/incremental** outcomes:
 - Learning and culture change over time (organisational politics model, pluralistic politics model)

Other dimensions of effectiveness

- Transactive
 - *To what extent, and by whom, is the outcome of conducting [SEA] considered to be worth the time and cost involved?*
- Normative
 - *Does the [SEA] meet the expectations of stakeholders irrespective of the sustainability discourse they align with?*
 - [Assumes that the purpose of SEA should be to promote sustainable development]

The importance of context

- Aspects of the context affect the conduct of impact assessment and hence its effectiveness:
 - Institutional, legal and policy context
 - Social, cultural and political values



Fischer (2002); Bina (2008)

Case Study: Proposed Browse LNG Precinct at James Price Point (JPP)



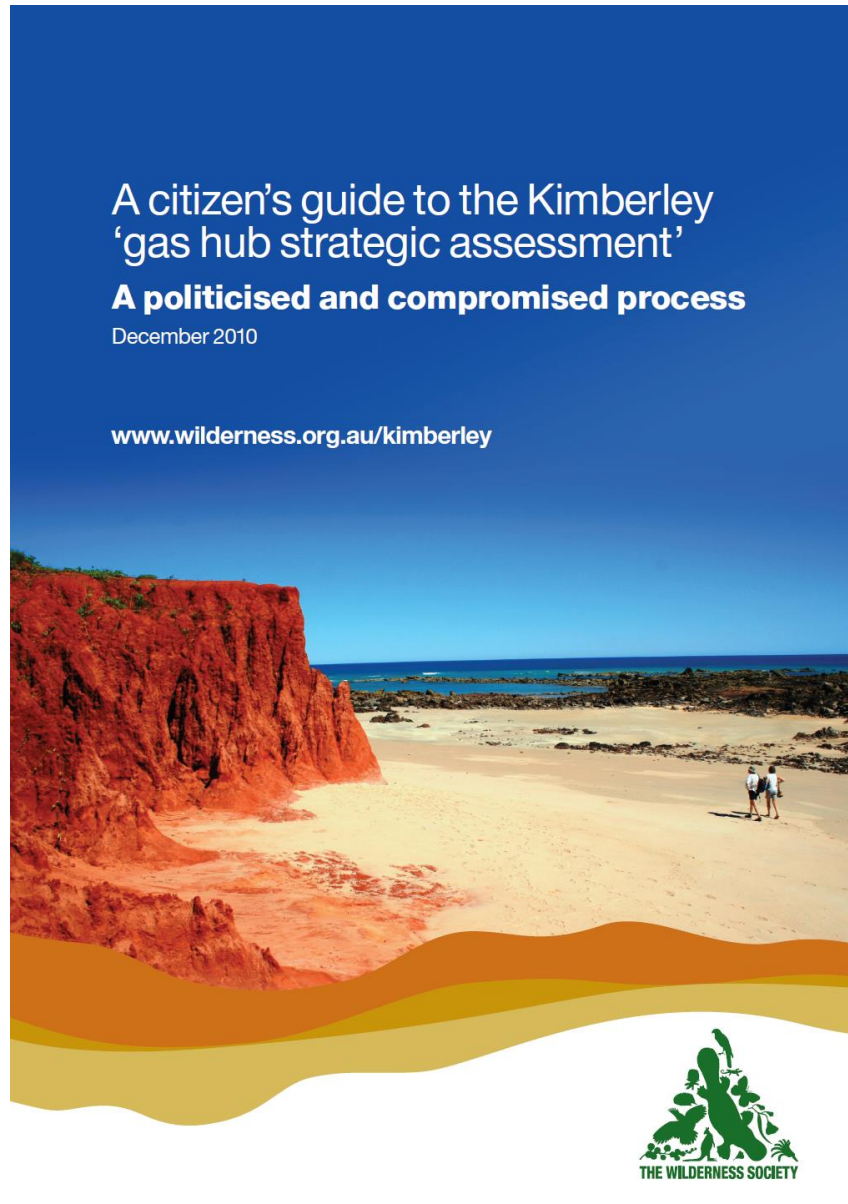
“It's a long story,
full of broken
promises, weasel
words and
excuses for work
simply not done”.

A citizen's guide to the Kimberley 'gas hub strategic assessment'

A politicised and compromised process

December 2010

www.wilderness.org.au/kimberley



<https://www.wilderness.org.au/articles/citizens-guide-kimberley-gas-hub-strategic-assessment-report>

Background and context

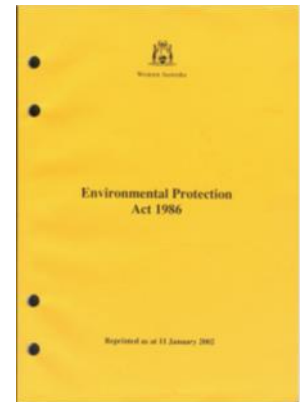
- Browse Basin gas reserves significant
- Concern about cumulative impacts of multiple *ad hoc* developments
- Joint State and Federal Government initiative to identify multi-user LNG hub site
- Strongly supported (initially) by eNGOs and the Kimberley Land Council (KLC)



Environmental Protection Act 1986 (WA)

3 SEA mechanisms:

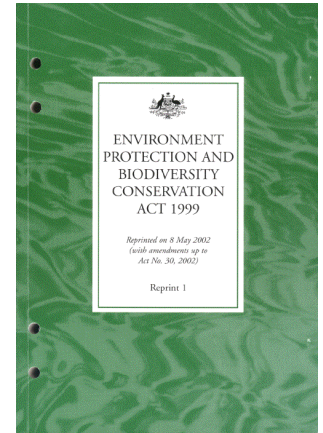
- Mandatory for land-use planning schemes likely to have significant effect on env. [s48A]
 - Minister's conditions of approval incorporated into planning scheme text (i.e. binding)
- Voluntary for any activity (any proponent) [s16]
 - informal advice of the Environmental Protection Authority (no conditions)
- Voluntary for 'strategic proposals' (any proponent) [s38(3)]
 - Minister's conditions of approval to be applied to 'derived proposals' (i.e. binding if proposal proceeds)



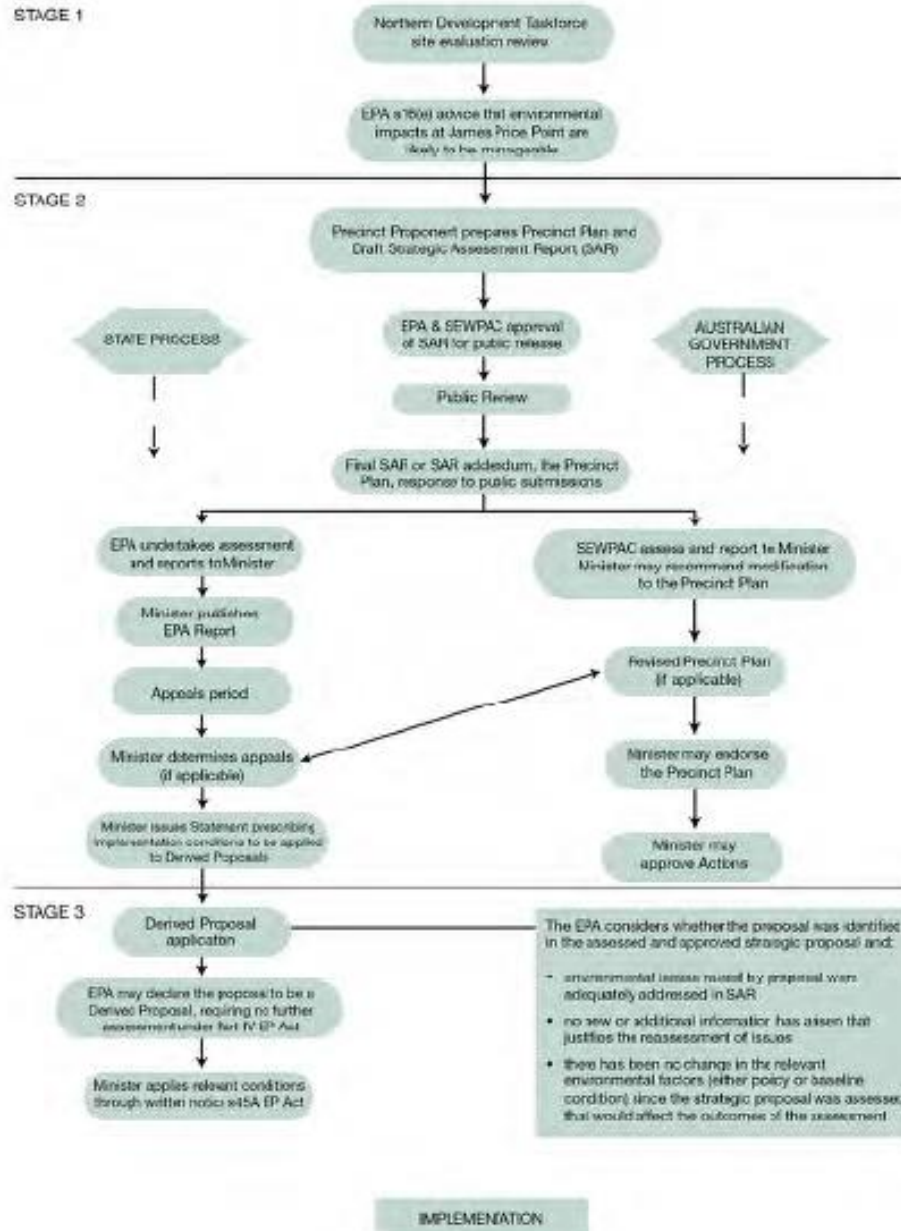
Environment Protection and Biodiversity Conservation (EPBC) Act 1999 (Cth)

2 SEA mechanisms:

- Mandatory for fisheries (Cth waters, or state fisheries with exports) [s147-154]
- Voluntary for policy, program or plan [s146]
 - Potential for 'approved actions' to be declared (exempt from project-level EIA)
 - Uptake improved by 2006 Amendments to the *EPBC Act*
 - 22 in progress or complete



<https://www.environment.gov.au/protection/assessments/strategic>



Informal SEA – NDT
site selection

Formal SEA – WA and
Cth statutory
strategic assessment

Process overview

http://www.dsd.wa.gov.au/docs/default-source/default-document-library/browse_sar_part_2_process_1210?sfvrsn=12

Northern Development Taskforce (NDT) process (informal SEA)

- **2007:** NDT appointed by WA Government to identify suitable site for gas processing
- **2008:** Informal SEA conducted by NDT:
 - Numerous working groups formed
 - Industry-identified sites in Kimberley reviewed by NDT
 - 43 sites reduced to 11 (including 2 Indigenous-proposed sites) and then to 4
 - Minimal consideration of sites in Pilbara and NT
 - Shortlisted sites assessed by EPA under s16e of *EPA Act*
 - Least environmentally-constrained site: Gourdon Bay
 - James Price Point selected as new Liberal Government's preferred site (replacing North Head)

Statutory strategic assessment (formal SEA)

- **February 2008:** Strategic Assessment Agreement signed by WA and Commonwealth Environment Ministers
 - Collaborative process under both pieces of legislation
 - Dedicated Aboriginal Social Impact Assessment (ASIA)
 - Proponent : WA Department of State Development
- **August 2009:** Scope of the Strategic Assessment also included broad range of social impacts
- **December 2010:** Strategic Assessment Report released
- **Throughout 2011-2012:** Specialist study reports continued to be released
- **July 2012:** WA Government approves strategic proposal
- **December 2012:** Woodside's proposal declared a 'derived proposal'

Other happenings

- **August 2009:** Woodside declared 'foundation proponent' of Precinct
- **Early 2011:** Woodside commences Front End Engineering Design, as well as project-level SIA
- **June 2011:** Indigenous benefits package negotiated (\$1.5 bn over 30 years)
- **August 2011:** National Heritage Assessment leads to listing of West Kimberley
- **From mid-2011:** Increased protests and legal challenges
- **July 2012:** WA EPA recommends approval of strategic proposal, Browse (Land) Agreement Bill introduced to Parliament

Denouement

- **April 2013:** Woodside announces it will not proceed with an onshore gas plant at JPP
- **August 2013:** Supreme Court ruling in favour of Wilderness Society wrt conflict of interest of EPA members
- **February 2014:** New 3-member EPA Board commissioned to re-assess Browse proposal
- **Mid-2015:** Strategic proposal to develop the Browse LNG Precinct at JPP approved by WA Government
- **The legacy:** Indigenous and non-Indigenous communities still split over the issue

Procedural effectiveness

Have appropriate processes been followed that reflect institutional and professional standards and procedures?

NDT site selection

- Some criticism of technical/environmental focus
- Some criticism of failure to meaningfully consider sites outside Kimberley
- Generally good engagement, particularly with environmental experts
- Generally transparent (3 NDT reports)

Statutory strategic assessment

- Limited guidance available on statutory strategic assessment at time
- Process essentially 'EIA writ large', i.e:
 - Reactive
 - Distinct from planning
 - Baseline-driven (bottom up)
 - Technical-rational
 - Requires detailed data
 - Emphasis on report
- Some criticism for weak community engagement
- Lack of integration of social, Indigenous and environmental components

Substantive effectiveness

In what ways, and to what extent does [SEA] lead to changes in process, actions, or outcomes?

NDT site selection process

- Achieved immediate aim of identifying preferred site
- Environmental input to decision (via EPA) evident
- Did not deliver on other goals:
 - Sustainable development strategy
 - Model for Indigenous engagement and benefits

Statutory strategic assessment

- Strategic Assessment Report not adequately informed by appropriate knowledge:
 - Many specialist studies not completed in time
 - Argument that known impacts downplayed (Wilderness Society)
 - Argument that strategic assessment should have applied to all 4 short-listed sites
- Difficult to demonstrate that proposed mitigations would be adequate (lack of detailed info)

Transactive effectiveness

To what extent, and by whom, is the outcome of conducting [SEA] considered to be worth the time and cost involved?

NDT site selection process

- Very efficient, completed in approximately 1 year

Statutory strategic assessment

- Streamlining of future project proposals is rationale for strategic assessment in Australia
- For future proponents of derived proposals, potentially highly transactively effective, but for community?
- Sense of undue haste
- Irony that process significantly slowed due to legal challenges

Normative effectiveness

Does the [SEA] meet the expectations of stakeholders irrespective of the sustainability discourse they align with?

NDT site selection process

- Objectives with respect to sustainable development not entirely clear

Statutory strategic assessment

- Objectives with respect to sustainable development not entirely clear:
 - In WA *EP Act*
 - In Cth *EPBC Act*
 - In strategic assessment documentation
- Perception that implicit goals changed during process
- Clearly some stakeholders found assessment to be normatively ineffective

The importance of context

- Indigenous context:
 - Role of Kimberley Land Council
 - Tension between Native Title claimants
 - Lack of trust in Government over compulsory acquisition of land
- Political context:
 - Change of Government in WA September 2008
 - Pro-development stance of WA Government (Inpex decision)
 - Perception of political interference in process
- Characteristics of Kimberley:
 - “Last great wilderness”
 - Unique history and culture of Broome



Kimberley Land Council



Other points of reflection

- How strategic was the decision-making?
- Were there too many things going on concurrently?
- Could this assessment ever have been undertaken in a way that was acceptable to most stakeholders?
- Does Australia prioritise transactive effectiveness over all other dimensions of effectiveness?
- Does our legislation with respect to derived proposals and approved actions limit our ability to be strategic?
- Or is it an issue of application and implementation?
- Are there any lessons learnt for SEA in New Zealand?



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