

Response to Dr Stephen Dovers' position paper for the Joint Academies Committee on Sustainability project on Integrated Multidisciplinary Approaches to Sustainability Assessment: *Policy assessment for sustainability: institutional issues and options*

Dr Simon Marsden

School of International Business, University of South Australia

Interest in sustainability assessment (SA) has grown rapidly over recent years, partly in response to the need to ensure that the objectives of sustainability (however they are defined) are met. Dovers indicates this in discussing 'the nature of the challenge' on p 2 of his paper; for example the oft described 'motherhood statements' that preface more modern environmental laws are usually still discretionary rather than mandatory.¹ Interest in sustainability impact assessment (SIA) has also grown in recent times driven by the necessity (and in some more recent instances, mandated requirements) to have regard to environmental, social and economic considerations when preparing strategic government proposals.²

Dovers emphasises that much of the interest, methodology, procedure and practice for policy assessment for sustainability has arisen within the impact assessment community, usually derived from environmental impact assessment (EIA) and related techniques. There has in fact been a wealth of related literature which emphasises a different approach, based on the techniques of policy analysis from the social sciences. While many EIA practitioners and commentators (including this respondent) have focused upon the positive changes that can occur if impact assessment methodology, procedure and practice is applied to strategic proposals (SEA), others fundamentally dispute this while existing policy making processes remain.³

The imperative of utilising supporting methods drawn from across the disciplines is however one of two requirements highlighted in the paper, the other being the institutional setting to which they are subject. While not addressing the difficulties inherent in applying a form of policy assessment based upon impact assessment to the policy making process in detail (see Brown and Nitz below), the paper recognises (on p 7) the reality that rational clear outcomes are unlikely to result from the mere input of information (whether scientific or not), but rather from the exercise of political judgment. To be added to this is of course the way in which the policy making process works, inhibited by trade offs and a lack of transparency whatever good practice guidance may have us believe!

To the discussion of the institutional models for policy assessment can be added the public inquiry. While public inquiries have often been criticised for in some instances considering issues in a policy vacuum, failing to provide access to interested parties, insisting on participants being of financial means to appear, (together with a range of other legal formalities) there are indications that the process has changed and is changing to provide a more appropriate forum to, at times, consider matters of policy.⁴ The Mackenzie Valley Pipeline Inquiry in Canada was perhaps the best example of this, set up to determine the social, environmental and economic impact of the proposed Arctic Gas pipeline to be built from Alaska through the Mackenzie Valley to metropolitan centres in Canada and the U.S.⁵

An institutional model that I would argue should be reconsidered by the author is the office of the auditor-general. Another example from Canada is the Commissioner of the Environment and Sustainable Development (within the office of the Auditor General) who has audited Canada's EIA and SEA processes together with a subsequent review of federal efforts to 'green' federal policies and programs. The Commissioner made a number of recommendations on both which have in part been implemented.⁶ As a result, a statutory framework for SEA is currently being developed in consultation with Canada's Minister of the Environment, and the Commissioner is

again auditing implementation of Canada's SEA Directive, with results to be published in September 2004 alongside further recommendations for reform.

To the discussion of institutional settings and recommendations for change should also be added a discussion of institutional policy making and related reform. Whether the focus should however be on change/reform of institutions and existing process or on adaptation of the policy assessment process must in part be dependent upon optimism or life expectancy! Resistance to organisational and procedural change is certainly the major obstacle to full implementation of SEA where it seeks to promote *environmental* objectives above all; where SA is implemented alongside assessments that have met with more support by decision makers (such as cost benefit analyses, regulatory impact analyses) it is possible that there may be less resistance.

Consideration of the papers presented at the recent International Association for Impact Assessment conference in Vancouver would certainly suggest that there is a wealth of research being carried out in the area of SA⁷ and that much of the current SEA research is invariably influenced by it. However Dovers is right to draw attention to the fact that there is now a reasonable experience of SEA, especially in Europe, which can also be of benefit to advocates of SA. It also remains a topical question whether implementation of the SEA Directive will correspond with current requirements or whether it will be implemented to take account both of these requirements and of SA.⁸

Notes

¹ Consider for example, the 'principal aim' of my former employer, the Environment Agency of England and Wales, as set out in s 4 of the Environment Act 1995 to '...protect or enhance the environment, taken as a whole, as to make the contribution towards attaining the objective of achieving sustainable development.' While decision makers must therefore take this into account, provided this is done opportunities for administrative law challenge are limited.

² For instance Sustainability Appraisal is now mandatory for the preparation of Local Development Documents and Regional Spatial Strategies (key strategic planning documents) under the amendments made to the English town and country planning system by the Planning and Compulsory Purchase Act 2004.

³ See Brown, AL and Nitz, T. 2002 and references contained therein, especially pp 86-89. Applying SEA to policy making: the Policy Cycle Model and the Queensland Policy Handbook. In: Marsden, S. and Dovers, S. (eds) *Strategic environmental assessment in Australasia*. Sydney: Federation Press.

⁴ The UNECE Aarhus Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters is driving change in this direction

⁵ Upon Justice Berger's recommendation, the Government of Canada rejected the proposal and approved an alternate route. Canada also adopted his recommendation to establish a wilderness park in the Northern Yukon to protect one of the last great caribou herds of North America, and to impose a moratorium on major development in the Mackenzie Valley to enable aboriginal land claims to be settled. His commission report, Northern Frontier, Northern Homeland, is the best-selling document ever published by the Canadian government. See Berger, T. 1977. Northern Frontier, Northern Homeland, James Lorimer and Co.

⁶ See Environmental Assessment – A Critical Tool for Sustainable Development, Chapter 8 – 1998 Report of the Commissioner of the Environment and Sustainable Development, Government of Canada, 1998; Greening Policies and Programs – Supporting Sustainable Development Decisions, Chapter 9 – 1999 Report of the Commissioner of the Environment and Sustainable Development, Government of Canada.

⁷ For relevant examples see the following: Pope, J. 2004. Conceptualising Sustainability Assessment: Three models and a case study; Gibson, RB. Sustainability assessment: basic components of a practical approach; Varey, W. Integrated approaches to sustainability assessment: an alignment of ends and means.

⁸ See Marsden, S. and De Mulder, J. 2004. Strategic environmental assessment and sustainability in Europe – how bright is the future? Paper submitted for publication in the Journal of Environmental Law; and Sheate et al. 2003. Integrating the environment into strategic decision making: conceptualising policy SEA. 13 European Environment, 1-18, which discusses the relationship of SEA to SA in the EU.