



Submission to the Department of Planning Environment and Industry concerning the Draft 2020 Social Impact Assessment Guideline

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Introduction

This submission is written by Dr. Rebecca Lawrence, a Senior Research Fellow at the Sydney Environment Institute, University of Sydney.

In 2017 the NSW Department of Planning Industry and Environment (DPIE) released its first Social Impact Assessment (SIA) Guideline. This Guideline applied to all state significant resource projects (i.e. mines and quarries). The draft SIA Guideline (2020) and Technical Supplement (hereafter “Guideline”) is an updated version of the 2017 SIA Guideline and is intended to apply to all State Significant Projects (e.g. now also including infrastructure, hospitals, schools etc).

NSW DPIE is to be commended for extending the Guideline to all State Significant Resource projects.

DPIE’s intention to improve the standards concerning SIA in NSW is welcomed and it is hoped that the submission below will assist DPIE in further developing these standards.

Key concerns with the 2020 Guideline are outlined below, many of which pertained also to the 2017 Guideline. In short, there is a concern that the 2020 Guideline will not be sufficient to strengthen good SIA practice or good planning decisions. This has partly to do with the content of the 2020 Guideline, but mainly to do with a lack of implementation mechanisms. In order for this roll out to be effective, SIA must be made a statutory requirement, and the Guideline must make clear how it will be implemented.

The following submission is divided in two parts, although there is some overlap between the two. Part 1 generally focusses on implementation and process issues with the Guideline. Part 2 generally focusses on content issues with the Guideline.

1. Implementation and process issues with the Guideline

1.1 Lack of legal requirements for SIA

While the Guidelines provide substantive and much-needed guidance to proponents, there are no specific and enforceable legal requirements to undertake independent and rigorous SIA in NSW:

- In the context of major projects, there is a critical need for the EPA Act and Regulations to provide specific obligations in relation to SIA. Social impact assessment is currently subsumed within an EIA process that imposes minimal obligations in relation to the content of an EIS and gives a broad discretion to the Planning Secretary in setting the Environmental Assessment Requirements of a project. The statutory framework should require approval decisions under the EPA Act to implement the Guidelines, including the assessment methods contained in the Guidelines.
- In short, social impacts still fail to be assessed under the Environmental Planning and Assessment Act 1979 (NSW) (EPA Act) and the Environmental Planning and Assessment Regulations 2000 (NSW) (Regulation) as part of the environmental impact assessment process alongside economic and environmental impacts, and communities have limited scope to ensure that relevant social impacts are identified, assessed and managed in an ongoing wayⁱ.
- Proponents are not required to consult the community during the development of the project and prior to lodgement in a way that would enable communities to identify all relevant impacts and contribute to the development of alternatives or solutions (see The Hon Justice Brian J Preston, 'The adequacy of the law in satisfying society's expectations for major projects' (2015) 32 EPLJ 182, 189). In addition, there is no legal requirement to ensure the free, prior and informed consent of affected social groups.

These legal provisions, combined with restrictions on appeal rights for major projects, are not sufficient to ensure a targeted, comprehensive and independent assessment of the relevant social impacts of state significant projects. The Chief Judge of the Land and Environment Court, Justice Brian Preston, has remarked that the: 'The result is often that social impacts are inadequately assessed in practice' (Preston, above, 191).

Justice Preston's assessment makes clear that there is a need for the statutory requirements to impose formal procedures under the EPA Act and the Regulation for SIA of major projects. These statutory provisions should require approval decisions under the EPA Act to implement the Guideline, including the assessment methods contained in the Guideline and Technical Supplement.

1.2 DPIE should develop and make public an implementation plan for the Guideline.

A key challenge facing DPIE is that the 2017 Guideline does not seem to have made any substantial difference the way DPIE is assessing social impactsⁱⁱ. If this is correct, and the 2017 Guideline hasn't made a difference, the question must be asked: what difference will the 2020 Guideline make?

The next question is this: why? Is the problem that the content of the Guideline is too weak, or because it is simply not being implemented? This submission contends it is primarily a case of poor implementation, although issues with the content are also discussed below.

The following implementation issues appear exist:

- a. There has been a tendency for proponents to state that they have “applied” the 2017 Guideline, and for DPIE to take this as fact. A case in point is the Narrabri Gas project, where the proponent stated they had applied the Guideline, DPIE accepted this at face value without actually assessing, yet in SEI’s own review of the process found that neither claims were supported by evidence (<https://sei.sydney.edu.au/wp-content/uploads/2020/07/2020-07-23-SEI-IPC-Submission.pdf> pg 25).
- b. Communities have sought access to DPIE’s peer reviews, but they have largely remained internal documents, raising questions around the transparency and legitimacy of the Guideline and its implementation in-house. This lack of transparency further restricts the capacity of communities to observe and rectify instances in which impact mitigation measures fail or are not properly implemented.
- c. When DPIE has sought external peer reviews, questions have been raised as to DPIE’s ability to interpret this SIA advice accurately (see more below).
- d. The Guideline has an overwhelming focus on process, at the expense of requiring that SIA’s actually assess the social impact merits of a case. For example, according to the Guideline and DPIE’s general approach to SIA, it would seem that an SIA could theoretically tick the box because community consultation was undertaken, but the fact that a proposed project would have unmanageable adverse social impacts may not be assessed. That is, at no point in DPIE’s own assessment process, does it appear that there is a requirement that the social impact merits of a case actually be assessed.
- e. In light of this, the guideline fails to provide a means of recourse for communities should proponent’s fail to implement the guideline, nor is it apparent that there are any ramifications for the absence of or failure to achieve best practice. The emphasis on process results in a front-focused explanation of how an SIA should be undertaken, without

sufficiently addressing what should happen if these processes are not properly adhered to. Given the guideline identifies community members wishing to ‘understand SIA requirements and how to participate in the SIA process’, any avenues for monitoring SIA implementation and proponent accountability should also be made clear.

DPIE should therefore develop and make public an implementation plan for the Guideline. This could be included as an appendix to the Guideline or separate. Either way, the Guideline should refer to the implementation plan and DPIE’s commitment to update, make public and follow its own implementation plan. For example, the implementation plan could state that 1) an SIA will be peer reviewed (more on this below) 2) the proponent will be required to amend the SIA according to the peer review 3) DPIE will assess whether the amended SIA meets the standards and criteria set out in the Guideline and 4) DPIE will assess the social impact merits of the proposal.

In order to operationalise this, the Guideline should describe methodological failures that will be considered unacceptable (i.e. standards) and state the criteria against which a SIA as a merit assessment will be reviewed. These do not appear currently in the Guideline. Most importantly, assessing whether a SIA appears to have conformed with process requirements is not the same as assessing the document’s adequacy as an assessment of the social merits of what it proposed.

1.3 The Guideline should make clear that all SIAs will be peer reviewed

The Guideline avoids the fundamental dilemma that SIAs are funded by the proponent and that the content will likely reflect this by way of downplaying or ignoring key social impact issues. These problems with proponent funded SIAs have been comprehensively discussed in the academic literatureⁱⁱⁱ.

Consequently, proponent funded SIAs are not a reliable source of evidence for assessment and DPIE must ensure that it receives balanced advice by way of undertaking independent peer reviews of all significant SIAs. This would be in line with routines for other EIS studies: DPIE frequently commissions and receives independent reviews and advice regarding other technical studies throughout the assessment process. The same should apply to SIA.

Peer reviews should be undertaken by independent SIA specialists with skill and experience in detecting omissions and misuse of data, and the knowledge to identify the social impact merit of a proposal^{iv}.

However, a peer review process is only useful if DPIE staff have sufficient skill to interpret the peer review advice they receive. This means that if DPIE commissions peer reviews, they need to upskill staff so that the advice is correctly interpreted. We mention this, because in the recent case of the

Narrabri Gas Project, DPIE commissioned a peer review but misinterpreted the peer review advice in their assessment report to the IPC (<https://sei.sydney.edu.au/wp-content/uploads/2020/07/2020-07-23-SEI-IPC-Submission.pdf>).

The goal of a peer review process is multiple. It provides DPIE assessment officers with a clear recommendation based on the social impact merits of the proposal. It also provides greater legitimacy to the process, particularly in the case of community division or opposition to a project. It also provides clear feedback to proponents and SIA practitioners and sends a clear message about the standards expected.

Connected to this is the issue of community resources and capacity. It is becoming more and more common for communities to commission their own SIAs or peer reviews of proponent SIAs. Most of this work is undertaken pro-bono by researchers (such as this author) but this is not a sustainable model, and DPIE should consider better resourcing communities to more fully engage in the planning process. We also note that community-controlled impact assessments are at the cutting edge of best practice^v, and in order to achieve proper procedural fairness, DPIE may wish to consider commissioning these types of SIA, or at least encourage them as an alternative model.

1.4 It should be made clear how FPIC and personal and property rights will be guaranteed

Another example regarding the lack of clarity around the issue of implementation, is the question of Free Prior and Informed Consent. The Guideline states that engagement with Aboriginal people “should recognise and respect their rights and be culturally appropriate. In practice, this means: “[...]ensuring free, prior, and informed consent” Guideline, pg 31). This recognition of Indigenous rights is commendable and in line with developments in international law. However, FPIC was also referenced in the 2017 Guideline, yet there is no evidence of this ever being implemented.

First, without legal accountability mechanisms, and a clear implementation framework to attain FPIC, this standard may only be applicable to Native Titleholders rather than Aboriginal peoples generally who are not yet recognised as Traditional owners. Second, FPIC represents a vital opportunity and tool, when applied effectively, to provide self-determination for Aboriginal communities. Therefore, a fundamental link and acknowledgement between self-determination as an outcome of FPIC is needed in the Guidelines. Such an approach also adheres to the ‘human-rights orientated’ approach the Guideline seeks to support. Particular requirements to ensure psycho-social impacts and vulnerabilities of First Nations communities (including those who are not recognised as Traditional Owners) are recognised, addressed and eliminated is also needed in the context of FPIC within the Guideline.

Moreover, it is unclear why 'personal and property rights' as an impact category been changed to 'livelihoods'. Personal and property rights are a standard impact category in internationally accepted SIA guidelines and the SIA literature more generally. There is no evidence or logic given in the draft Guideline as to why this should be changed. This constitutes a serious watering down of the Guideline and personal and property rights should be reinstated as an impact category.

1.5 The intended audience for the Guideline is unclear

The Guideline states that it is intended for:

- a. Proponents preparing SIA reports for State significant projects
- b. Departmental assessment officers reviewing and assessing an SIA
- c. Community members or interest groups who wish to understand SIA requirements and how to participate in the SIA (pg 9).

Yet the entire Guideline is written as if it is addressed only to the first category, i.e. proponents.

This is a problem because:

- a. The Guideline will presumably be used by DPIE staff when assessing a SIA, but does not contain standards or criteria to be applied in their assessment,
- b. The Guideline tends to imply that any in-house assessment will focus on process rather than merit.

It is therefore recommended that i) the Guideline state that it has been prepared to assist project proponents and, ii) as noted above, the Guideline include methodological standards of adequacy and criteria for a social impacts merit assessment.

1.6 Failure to tailor consultations on the Guideline to Indigenous peoples, other marginalised groups, and civil society organisations

It appears that DPIE has held two information sessions for the public on the draft Guideline: one a general session and one tailored to SIA practitioners. It does not seem that there have been any specific consultations held with Indigenous peoples, other marginalised groups, or civil society organisations. This is highly concerning. DPIE should arguably be modelling the very standard in community consultations that it is itself espousing in the Guideline. If DPIE has not reached out to Indigenous peoples, other marginalised groups, and civil society organisations in specific and tailored ways, this constitutes a significant injustice and undermines the legitimacy of the public submissions process.

2. Issues with the Guideline content

2.1 The Guideline should be clear that SIA is not an “approvals mechanism” or “mitigation smorgasbord”

The Guideline has a very strong focus on how proponents and SIA practitioners can develop mitigations and social impact management plans (SIMP), with the assumption that mitigations and management plans can address all social impacts. What this implies is that that all projects can be approved (with conditions/mitigations/SIMPs). Yet, the Guideline does not acknowledge that the goal of an SIA is to provide the consent authority with an assessment of the likely impacts so they can make an informed determination as to whether it should grant or refuse consent to the application. In short, some projects may be rejected precisely because the social impacts cannot be mitigated or managed^{vi}. The Environment Planning and Assessment Act 1979 (NSW) clearly states that the assessment process has one of two outcomes: approval or refusal (see s.4.16 of the Act). “The Environment Planning and Assessment Act 1979 (NSW) clearly states that the assessment process has one of several outcomes: unconditional consent, grant consent subject to conditions or refuse consent to the application (see s.4.16 of the Act).”

Yet the Guideline evades the issue of SIA being the grounds for a refusal. For example, in figure 8 and section 3.3.11.1, proponents are encouraged to minimise and mitigate social impacts, but nothing is discussed in regard to residual social impacts that may be so great as to render the project socially unsustainable or fundamentally social unjust. The entire Guideline implies that all projects can be approved, and all social impacts can be managed. The words approved, approvals or approve appear 18 times in the document –most times which refer specifically to the “approvals” process –but several do not: they speak of community “approval”, post-approvals etc. The word refusal or reject, on the other hand, does not appear once in the Guideline, despite it occurring over 40 times in the EPA Act.

A more accurate picture should therefore be provided of the assessment process, which better reflects the EPA Act. It should be made clear in the Guideline that the assessment process is about understanding the totality of impacts so that planning authorities can make a determination whether to approve or reject the application. The aim of an SIA is not to “comfort” a community (Guideline, pg. 8), expediate the approvals process, or provide a smorgasbord of mitigation options. The goal of SIA is to provide a robust assessment of the social impact issues that matter so that planning authorities can make an evidenced based assessment for determination i.e. whether to approve or refuse the proposal.

It is positive that the Guideline states that mitigations should be tangible, deliverable, and durably effective. But there is a problem in that Guideline provides examples of mitigations that would not fulfill these criteria. For example, a mitigation that states to provide Aboriginal people with business and employment “opportunities” or policy goals to employ more Aboriginal people (pg 19 Technical Supplement), is not the same as actually committing to ensuring that a certain number of jobs or contracts will go to Aboriginal people. This concerns a fundamental difference between an equality of opportunity versus an equality of outcome. The latter is much harder to achieve and monitor, but that should be the goal of social impact mitigations. Social impact mitigations should also be made conditions of consent, but they rarely are, and the Guideline should address this.

2.2 The project’s impacts will determine the extent to which negative and positive social impacts require assessment

There is a general sense in the 2020 Draft of DPIE wanting to give more space to positive social impacts in SIA and to provide a more “balanced” view of positive and negative impacts. The issue that DPIE seem to have missed is that the project and its impacts will dictate to what extent positive or negative impacts will require assessment. For example, a project such as a public hospital or school would likely require more attention to positive social impacts than a proposed coal mine would. While the latter may have some positive impacts by way of job creation, the overwhelming majority of social impacts would be negative, and so any blanket suggestion that SIA should give a “balanced” view of both positive and negative social impacts is misplaced.

The newly developed social impacts matrix in the 2020 Guideline is a case in point. “Catastrophic” impacts have now been renamed “Transformational” impacts, in an attempt to make the language more neutral and incorporate the assessment of both positive and negative social impacts. While much can be said of the potential misuse of risk and impact matrixes in general^{vii}, the immediate issue is that draft Guideline has created another problem instead: highly significant negative impacts that are at high risk of occurring cannot be called “transformational”. They are, as they were categorised in the 2017 Guideline and in the SIA literature, catastrophic. Maybe the solution is to provide two kinds of matrixes: one for negative and one for positive impacts. Or maybe matrixes need to be done away with all together, as they seem to produce more problems than they solve, particularly when used incorrectly. Apart from any other consideration, the categorisation of impacts is often not amenable to objective classification and is highly vulnerable to being interpreted according to the interests of the proponent. Proponents are reluctant to concede that their project may result in catastrophe, but this should be a key concern for DPIE.

2.3 The Guideline should require a null scenario be developed

A “no go” or “null” alternative is the scenario in which the project does not go ahead, and the social baseline develops according to predicted trends. This is also known as the “without” scenario. The Guideline should require that a robust and realistic no-go alternative should be developed and included in all SIAs. Without this, an SIA analysis is incomplete, as the no-go scenario is a crucial benchmark in understanding how predicted impacts of the project deviate from the predicted baseline^{viii}.

2.4 The Guideline should require that SIAs include impacts on public health

The Guideline makes only minimal reference to public health and this deficit should be addressed. The social determinants of health and the way in which distributional equity underpins public health are not referred to in the current Guideline. The social determinants of health, as a concept, is fundamentally concerned with the operation of distributional equity, which is also an issue in SIA, and this should be addressed in the Guideline.^{ix}

2.5 The Guideline should state that climate change must be assessed in all relevant SIAs

The Guideline does not mention climate change. This is surprising, particularly given the overwhelming scientific consensus that climate change is already changing our environment and having complex social impacts as a result. The Guideline should require that SIA’s include the social implications of climate change, and the likely contribution of the proposed project to climate change, in their assessments.

Ideally, this means that any SIA concerning a proposed activity or project likely to contribute to climate change (via scope 1, 2 and 3 emissions), should be required to consider their social impacts. For example, an SIA of a coal-mine should necessarily assess the social impacts of a proposal that further contributes to climate change vis-à-vis a proposed State Significant solar project, for example. Similarly, the climate change implications of large urban housing or infrastructure development should be identified.

The Guideline also lacks reference and consideration of how the foundational concept of intergenerational equity will be scrutinised within an SIA. Intergenerational equity forms one of the key objectives of the EPAA framework^x and provides the legal setting to consider climate change impacts in taking a precautionary approach. At the very least, and even if the contribution of the project per se to climate change is not addressed, the Guideline should require that climate change

be addressed as a cumulative impact in all SIAs. For example, we know that climate change will impact upon how we plan housing and infrastructure – this is because sea-level rise will impact upon urban and coastal development. We also know that increasing global temperatures will lead to extreme climatic events, and adverse weather frequencies, which will impact upon rural land uses. This too will have social impacts and should consequently inform an assessment of the kinds of industries and land-uses prioritised in planning decisions. Extreme heat events will also impact public health, particularly affecting people who are already vulnerable, such as those with chronic respiratory illness^{xi}. This will have social impacts and should inform how we assess the social impacts of dust producing activities, such as mining and construction. Lastly, the recognition of climate change as relevant to regional social impacts is an issue of distributional equity. It is well established that climate change will disproportionately affect the most vulnerable both globally and at more local scales^{xii}. Given the recognition of distributional equity as a guiding principal within the guideline, this should be extended to include the potential risks of a shifting global climate to vulnerable communities – which are brought about in part by emissions solely beneficial to the profitability of the proponent.

Indeed, owing to the recent overhaul of its primary environmental legislation, the Northern Territory now requires all actions that may have a ‘have a significant impact on the environment are assessed, planned and carried out taking into account the impacts of a changing climate’.^{xiii} A similar requirement should be recommended within the Guideline.

2.6 Need for social impact monitoring

Social impact assessment is crucial to good planning practice, but only so long as there is a feedback loop so that we learn from monitoring the actual social impacts of comparable projects. The general problem is that social impact practice is heavily focused on predicting impacts rather than actually monitoring them. This means the evidence base from which to predict impacts is not being developed or updated. Without such an evidence base, there is no feedback loop to inform future predictions about social impacts. It also means that projects are being approved on the basis of impact predictions that are not being monitored.

The Guideline should clearly state how social impact monitoring will be required, who will undertake it, how the community will be involved, and how it will inform future SIA and decisions made by DPIE. This would contribute to a growing database of social impacts of different kinds of developments, and would also help to address community concerns that ineffective conditions of consent are being recycled and re-used for multiple projects.

2.7 Need for strategic regional social impact assessments

The Guideline mentions that the cumulative impacts of projects should be assessed but does not say how this will happen. Moreover, it is not just that cumulative impacts are frequently omitted from SIAs, the bigger problem is that social impact assessment and strategic regional planning is not being undertaken by government. Take, for example, coalmining in the Hunter Valley. Each individual proponent undertakes its own SIA, but no government body or authority has undertaken a regional SIA and asked the question: what is the totality of coal mining impacts on these communities and what is socially sustainable/socially just?

There is no incentive (or any real financial possibility) for a single applicant to undertake a cumulative, regional or place-based social impact study of multiple developments. It is the role of government to do this by creating a legally enforceable penalty regime for non-compliance with the Guideline. Currently, there are regional communities who are facing multiple resource and other developments, but there is no assessment being undertaken of the cumulative social impacts or apparent consideration of the point at which a threshold of social sustainability is passed.

DPIE should consider commissioning strategic regional social impact assessments in areas under significant pressure from multiple large-scale developments, such as Narrabri and the Hunter Valley.

2.8 Need to respect Indigenous peoples' rights

It is positive that Aboriginal people's spiritual and cultural loss is counted as a social impact (pg 31 appendix to Guideline) but it should not be in an appendix on community consultation. This needs to be given more prominence and should be included as a matter for consideration in social impacts. This is particularly vital given DPIE's desire to implement FPIC.

2.9 Need to specifically address the social impacts of projects on Indigenous people

The Guideline and Technical Supplement both have an overwhelming focus on impacts relating to Indigenous people as primarily being about "cultural" impacts. While this is certainly an important point, and one that must be addressed in any SIA, the Guideline should state clearly that other key social impacts of projects on Aboriginal people must also be addressed. For example, impacts of projects on Aboriginal people's public health, housing, employment etc must also be addressed. This is very often missing in SIAs and must be required in the Guideline in order to address these common omissions in SIAs.

2.10 Incorrect definition of community and people

It is incorrect and problematic to define “businesses” as “community” and “people”. Businesses are stakeholders, not “people” or communities. See standard sociological definitions of [community](#).

2.11 Need for a dynamic social baseline

The Guideline states that for a modification of a project “You will not be expected to compile new social baseline data or complete a new SIA;” (pg 15). This should be changed to “you should not usually be expected to compile new social baseline data or complete a new SIA” as there may be cases where the time lag between the original SIA and the updated SIA is so significant that baseline data has changed.

“The social baseline study describes the social context without the project.” (pg 22) This is not entirely correct and should be rephrased to state “the social baseline describes the social context at the time of the SIA being undertaken.” This distinction is important because many projects have already had multiple social impacts prior to the formal assessment process beginning, such as the acquisition of land by mining companies prior to formal assessment process. This has social impacts and should be included in the baseline.

2.12 Guideline and Technical Supplement should be combined and considerably reduced

Whereas the 2017 Guideline was one document, the draft 2020 Guideline has been split into 2 documents: the Guideline and a Technical Supplement. The 2020 Guideline is now not so much of a Guideline per se, and most of the material that was in the 2017 Guideline is now in the 2020 Technical Supplement. This creates confusion. Moreover, most of the contents of the 2020 Guideline are high level and vague, making the document disembodied and abstract. Most of the useful material is the Technical Supplement. It is recommended that the two documents be combined and the majority of the material in the 2020 Guideline be significantly reduced.

Biographical Statement

Rebecca Lawrence

Dr Rebecca Lawrence is a Senior Research Fellow at Sydney Environment Institute and the Department of Government and International Relations at the University of Sydney. She is a social impact expert and was the social impact expert in the Rocky Hill case for the Department of Planning, Industry and Environment. She was also recently commissioned by DPIE to evaluate DPIE's SIA Guideline and its implementation. Dr Lawrence's research focusses on the social impacts of resource developments for Indigenous and local communities, particularly with regard to human rights, social conflicts, protests, and the social and environmental legacies of abandoned resource projects.

Dr. Lawrence frequently provides pro-bono advice to resource affected communities, as well as civil society organisations, including EDO, ACF and international Indigenous organisations such as the Sami Council

References

ⁱ The consent authority, in determining a development application for SSD, must take into consideration, among other matters, the 'likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality', public submissions and 'the public interest' (ss 4.15, 4.40, EPA Act). Projects that are SSD or SSI must be accompanied by an EIS that includes (cl 7, Sch 2, the Regulation):

(d) An analysis of the development, activity or infrastructure, including—

(i) A full description of the development, activity or infrastructure, and

(ii) A general description of the environment likely to be affected by the development, activity or infrastructure, together with a detailed description of those aspects of the environment that are likely to be significantly affected, and

(iii) The likely impact on the environment of the development, activity or infrastructure, and

(iv) A full description of the measures proposed to mitigate any adverse effects of the development, activity or infrastructure on the environment, and

(v) A list of any approvals that must be obtained under any other Act or law before the development, activity or infrastructure may lawfully be carried out,

(e) A compilation (in a single section of the environmental impact statement) of the measures referred to in item (d)(iv),

(f) The reasons justifying the carrying out of the development, activity or infrastructure in the manner proposed, having regard to biophysical, economic and social considerations, including the principles of ecologically sustainable development set out in subclause (4).

ⁱⁱ We note that DPIEs 2017 Guideline was skilfully applied and used by Justice Preston in assessing the social impacts of the proposed Rocky Hill case, but we are yet to see evidence of DPIE doing the same in one of their assessment reports.

ⁱⁱⁱ Vanclay F 2020, Reflections on Social Impact Assessment in the 21st century, *Impact Assessment and Project Appraisal* 28,2: 126-131; Smith, Katherine E., Gary Fooks, Gary, Jeff Collin, Heide Weishaar, and Anne B Gilmore, 2010, Is the increasing policy use of Impact Assessment in Europe likely to undermine efforts to achieve healthy public policy? *J Epidemiology and Community Health*, 64, (6) 476; DOI: 10.1136/jech.2009.100370

^{iv} It is crucial that SIA, and the peer review process, is not just a tick-the-box *process*, but that the key social impacts are identified and assessed so that a determination can be made based on the key social impact issues. We emphasise this, because both proponent SIAs, and DPIEs own assessment of them, have had too much focus on process over content.

^v See O'Faircheallaigh, C. (2017). Shaping projects, shaping impacts: community-controlled impact assessments and negotiated agreements. *Third World Quarterly*, 38(5), 1181-1197 and Lawrence, R., & Larsen, R. K. (2017). The politics of planning: assessing the impacts of mining on Sami lands. *Third World Quarterly*, 38(5), 1164-1180.

^{vi} That the significant social impacts could not be mitigated was a key ground for refusal in the Rocky Hill case, where Lawrence and Ziller acted as expert SIA witnesses for DPIE.

^{vii} Risk matrixes tend to oversimplify impacts and encourage a quantitative/numerical approach that implies some negative impacts can be traded off by more positive ones.

^{viii} Vanclay F, Esteves AM, Aucamp I, et al. (2015) *Social Impact Assessment: Guidance for assessing and managing the social impacts of projects*.

^{ix} Bambra C, Gibson M, Snowden A, Wright K, Whitehead M & Petticrew M, 2010, Tackling the wider social determinants of health and health inequalities: evidence from systematic reviews, *J Epidemiology and Community Health* 64,4 284e291. doi:10.1136/jech.2008.082743 ; Wilkinson RJ and Pickett K, 2010, *The Spirit Level: why more equal societies almost always do better*, London Penguin

^x *Protection of the Environment Administration Act 1991* (NSW) s 6(2).

^{xi} McMichael AJ, Woodruff RE and Hales S. (2006) Climate change and human health: present and future risks. *The Lancet* 367: 859-869.

^{xii} Schlosberg, D and Collins, L. (2014) From environmental to climate justice: climate change and the discourse of environmental justice. *Wiley Interdisciplinary Reviews. Climate Change*, 5(3): 359-374.

^{xiii} *Environmental Protection Act 2019* (NT) s 42(b)(v).