

2 March 2017

Department of Planning & Environment

Submitted online: <http://www.planning.nsw.gov.au/Policy-and-Legislation/Social-Impact-Assessment>

By email: SIA.Project@planning.nsw.gov.au

Dear SIA Guidelines team,

Draft Social Impact Assessment Guidelines

EDO NSW is a community legal centre specialising in public interest environmental law. We provide extensive legal advice to communities impacted by extractive industries projects, and warmly welcome the *Social Impact Assessment – Draft guidelines for State significant mining, petroleum production and extractive industry development (Draft Guidelines)*.

We appreciate the opportunity to engage with the Department on this initiative and to provide feedback on the development of the Draft Guidelines.

We strongly support the objectives of the Draft Guidelines (p4).

In terms of application, we submit that it should be made clear that the final Guidelines will apply to modifications where social impacts are altered or increased (p5).

We note that the approach outlined in the Draft Guidelines may be applied to other types of State Significant Development (**SSD**) “at the discretion of the proponent” (note 1, p5), and submit that clear timeframes be set for expanding the application of the Draft Guidelines to other types of SSD. Many EDO NSW clients would benefit from this approach being applied for other SSD projects in their communities.

The benefits of the approach would be further enhanced by ensuring independent assessment of social impacts. The Draft Guidelines note the potential for affected communities to be involved in the selection of the preparer (p8). This should be strengthened to require a role for the community, or perhaps a veto, and provide further clarity about independent appointment of the expert. This will enhance community faith in the assessment process. There is a significant degree of scepticism about the objectivity of assessments done by consultants appointed by proponents and obtaining a comprehensive social assessment requires the community to trust those undertaking the assessment.

The biggest challenge in implementing the final Guidelines will be how to accurately assess the social impacts of a project in the context of cumulative impacts of multiple projects, or even just one project that is constantly evolving through modifications. In this context, we welcome the references throughout the Draft Guidelines to assessing cumulative impacts (for example, Box 2, p18).

Regarding adaptive management strategies, we submit that there needs to be further clarity in relation to the requirement for “identifying processes for responding to unforeseen impacts” (p22). Current Plans of Management provide too much latitude in relation to adaptive management processes regarding unforeseen or unapproved impacts. The use of adaptive management should always be in the context of keeping social impacts within approved limits. Further detail should be included regarding post-approval requirements for iterative reviews of ongoing social impacts (4.3, p25).

We strongly support recognition of human rights principles and cultural sensitivity when consulting and engaging with Aboriginal people (p28). We note that a separate process for reforming cultural heritage laws is underway and may provide further detail to augment these Guidelines once developed. EDO NSW is also actively engaged in that reform process and would be happy to discuss the issue further.

Finally, we support the list of Review Questions provided in Appendix C. It is important that these questions require proponents to describe and evidence how the assessment undertaken for their project has met the final Guidelines, rather than simply involving a tick-a-box list.

For further information, please contact rachel.walmsley@edonsw.org.au or (02) 9262 6989.

Yours sincerely,
EDO NSW



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