



DRAFT SOCIAL IMPACT ASSESSMENT GUIDELINE 2020

# Submissions Report

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## Acknowledgment of Country

The Department of Planning, Industry and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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## Introduction

In October 2020, the New South Wales (NSW) Department of Planning, Industry and Environment (the Department) published the draft Social Impact Assessment Guideline for State significant projects (draft Guideline). The draft Guideline was exhibited for four weeks between 30 October and 27 November. During the exhibition period, the Department received 75 submissions from a variety of stakeholders including individuals, local and State government, community groups, industry, representative bodies, professional associations, academic institutions, not-for-profit organisations, and social impact assessment professionals.

This Submissions Report provides a summary of the key themes and common or recurring comments raised in submissions. It does not report on every issue raised during the exhibition period, nor on any comments raised in any engagements held before or after the exhibition period. The submissions made on the draft Guideline can be viewed [here](#).

## Draft Social Impact Assessment Guideline 2020

The draft Guideline aims to standardise the Social Impact Assessment (SIA) approach across all State significant development, State significant infrastructure and Critical State significant infrastructure projects for NSW.

The draft Guideline builds on the 2017 SIA Guideline for State significant resource projects, and provides advice to applicants, whether State government or industry, on how to complete a SIA as a part of their overall environmental impact assessment process.

The draft Guideline aims to provide:

- a rigorous framework to identify, evaluate and respond to social impacts
- guidance on meaningful, respectful, and effective community engagement on social impacts from project planning to post-approval phase
- the means to obtain quality, relevant information, and analysis for decision-makers
- advice on how the SIA can inform ongoing engagement, project refinement, monitoring and adaptive management.

## Consultation

The Department sought public feedback on the draft Guideline for State significant projects during public exhibition from 30 October to 27 November 2020.

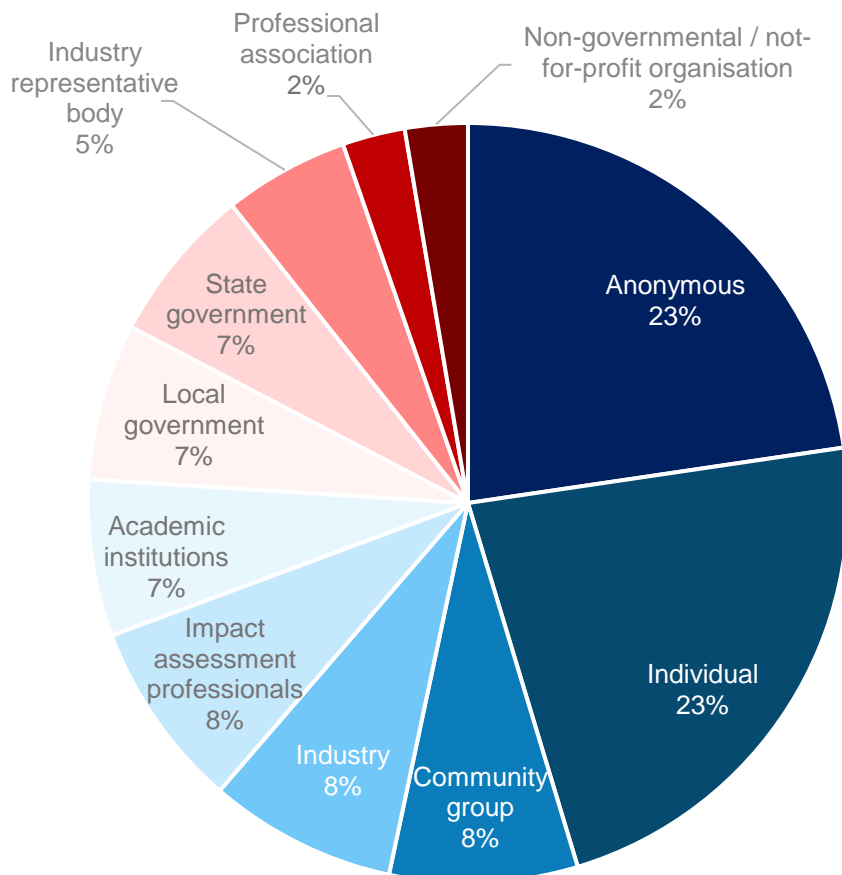
Restrictions on face to face engagement resulted in a reliance on online events and presence to promote and provide information on the draft Guideline. Information sharing and consultation was achieved through a number of activities, including:

Date	Activity	Format	Participants/engagement
5 Nov 2020	Public information session attended by representatives of community groups, general community, social impact assessment professionals, academic institutions and industry	Online webinar	45 attendees (additional 56 views of recording)
	Summary of Q&A from the public information session	Posted on the Department website	32 views
11 Nov 2020	Public information targeted at practitioners and proponents	Online webinar	66 attendees
2 Nov 2020	Emails sent to the Department's contact database, including local governments, Aboriginal Land Councils, community organisations and various industries	Emails	450 recipients
Nov 2020	Campaign to promote the exhibition of the draft Guideline	Social media campaign on LinkedIn and Facebook	100,000 people reached, over 1,000 accessing the link

In total, the online Guideline has been viewed by 755 people, as well as 193 views of the Technical Supplement and 59 views of the Transitional Arrangements FAQs. The website was visited by over 4,000 people over the exhibition period. Outputs from all engagement activities will inform the Department's update to the draft Guideline.

## Submissions overview

The Department received 75 submissions in total on the draft Guideline. Submissions were received from a variety of stakeholders as shown in the figure below:<sup>1</sup>



Each submission was assigned a unique alphanumeric code and examined individually to understand the issues being raised. A review was undertaken to identify common and recurring themes. These themes form the structure of this Report.

The exhibition process has delivered valuable feedback on the draft Guideline. Submissions received demonstrated thoughtful responses from a range of stakeholders, raising comments and issues that the Department is considering as it revises and refines the documents.

Support was received for the draft Guideline as a means of clearly articulating the Department's requirements for SIA. Approximately a quarter of submissions explicitly supported the update, commending the update of the Guideline in making SIA requirements clearer, more robust, comprehensive, and rigorous. Additionally, amongst these submissions is a recognition of the importance of SIAs in achieving outcomes that are more beneficial for impacted communities.

A small number of submissions indicated a preference for the 2017 Guideline, which they felt was clearer and more accessible. Three submissions opposed the draft Guideline, expressing concern with the resources, time and costs that would be required to undertake SIA.

Comments about the draft Guideline can be categorised into five key themes, as summarised below:

<sup>1</sup> Industry represents individual developers or organisations e.g. resource companies. Industry representative bodies covers membership organisations that collectively represent a particular industry e.g. minerals council. Professional associations refers specifically to those organisations which provide professional accreditation.

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## Overall principles and application

- overarching principles and benefits identified for SIA
- projects to which the draft Guideline will apply
- proportionality of requirements for different projects
- audience for the draft Guideline
- SIA authorship requirements.

## Consultation and engagement

- guidance around consultation and engagement within the draft Guideline.

## Social impact assessment approach

The proposed approach for undertaking SIA, divided further into:

- overall process, including Phase 1 and Phase 2 delineation, and any topic omissions
- social locality and study area
- social baseline and evidence base
- impact assessment and identification
- cumulative impacts
- social impact management including SIMPs, ongoing monitoring and post approval activities
- role of SIA in decision making and particularly refusal of projects.

## General comments

A series of more general comments relating to language, structure, and accessibility of the guideline, covering:

- balance between positive and negative impact considerations
- language and definitions of key terms
- use of case studies and examples
- structure of the guideline
- additional resources for inclusion
- accessibility of the Draft Guideline
- implementation and transition to the draft Guideline
- alignment with EIS and wider planning.

Some submissions addressed matters that do not strictly relate to the draft Guideline. These are reported in a final section – **Other matters**.

A number of suggestions were also made to amend the language, structure, layout, and diagrams within the draft Guideline to improve legibility and clarity, alongside a number of direct text changes and recommendations. These are not individually reported but will be taken into account in the Department's update of the draft Guideline.

## Next steps

The Department will review the suggestions, recommendations and comments summarised in this Report, and in the more detailed submissions recorded. These will be considered in reviewing the Guideline for final issue



# Overview of Submissions

## Overall principles and application

### Principles

The draft Guideline introduces a set of principles to support an evidence-based approach to SIA. There was substantial support for these principles from submissions. There were some suggestions for refinement or further definition for some of the principles.

Several submissions queried certain principles, particularly regarding their ability to be implemented. These included:

- ‘evidence-based approach’, with concerns about what constitutes evidence, and how this can be used objectively
- ‘impartiality’, questioning how this can be ensured when any method cannot be completely unbiased
- ‘precautionary’, ‘lifestyle focus’ and ‘rigorous’ principles and their applicability specifically to education facilities.

Additional principles were also suggested by various stakeholders, including:

- committed to social justice
- culturally sensitive / appropriate
- accessibility-focussed (for people with disabilities)
- participatory
- responsive (to information and materials provided)
- in the public interest/people-focused.

A small number of submissions, predominantly from academic institutions, commented on the consideration of equity in the development of the draft Guideline, and in turn the application of an equity-lens throughout the process of undertaking SIAs. Matters raised regarding equity included:

- the need for the Draft Guideline to clearly detail how impacts of inequity on public health, intergenerational equity and socioeconomic welfare should be considered in SIAs
- the need to ensure that members of the community that are the most marginalised and least able to participate are guaranteed a voice in SIA
- requests for greater guidance on how to apply a gendered lens to SIAs.

### Benefits

The draft Guideline articulates potential benefits of undertaking SIA using the draft Guideline.

Several submissions, from predominantly academic institutions, raised concerns about the benefits of providing ‘community comfort’ and building ‘community appreciation’. These submissions suggested an over-emphasis on gaining community support and following a process, rather than outcome or merit. They requested that the draft Guideline be reviewed to ensure the focus is on providing an objective and robust assessment of potential social impacts to enable informed decision making regarding the acceptability of potential social impacts.

This sentiment is echoed in a number of submissions which expressed concerns regarding the reference to ‘social licence’ as a benefit of the draft Guideline. These submissions felt that social licensing should be considered separately to SIA. Conversely, a small number of submissions, predominantly from industry and professional associations, suggested that social licence should be further integrated into the document and expressed support for this as an overarching aim of the document.

## Guideline application

The 2017 SIA Guideline applied to 'State significant resource projects'. The draft Guideline proposes to extend the remit to cover all State significant projects, to include State significant development (SSD), State significant infrastructure (SSI) and critical State significant infrastructure (CSSI). Many submissions supported the extension of the draft Guideline to all State significant projects. A small number of submissions, from individuals, suggested that the draft Guideline be extended further to apply to either all major projects, or all development projects regardless of size. This was suggested particularly in regional areas where impacts may be felt more acutely.

A small number of concerns were expressed regarding the extension to all State significant projects, suggesting that drawing focus away from resource projects specifically may weaken the emphasis on, and therefore protection of communities that are currently heavily impacted by resource projects (for example rural communities and Aboriginal peoples).

The draft Guideline indicates that an SIA will be required for a modification of more than minor environmental impact, or that changes the terms of an approval. A modification involving minimal environmental impact would not require an SIA under the draft Guideline. There were mixed views expressed on this. Some submissions, predominantly from industry, recommended that SIAs should not be required for modifications related to certain project types. Other submissions, predominantly from academic institutions, noted that given the likely time elapsed between the original application and a modification, an updated SIA may be required noting likely changes in the social baseline.

## Audience

The draft Guideline identifies its expected users as proponents, departmental assessment officers and community members or interest groups. Several submissions noted some inconsistency with the rest of the document which speaks directly to proponents, using language such as 'you' and 'your'. These submissions recommended that the draft Guideline clearly state that it has been developed for use by proponents.

## Proportionality and scalability of requirements

The draft Guideline emphasises that SIA is not a one-size-fits-all process. Many submissions, from a broad range of private and public sector sources, supported scaled requirements for SIA that are proportional to a project's scale, likely social impact, and broader context. Several submissions also noted the importance of striking a balance between technical rigour and practical application, to ensure requirements for SIA reporting are reasonable in the context of proponent timelines and budgets.

Some submissions expressed concerns regarding the requirements for certain elements of the SIA process, particularly during Phase 1, including the level of data collection for the social baseline, and the suggested application of the social impact significance table to Phase 1.

The draft Guideline suggests implementation of a 100-page maximum page limit for SIA. While submissions were generally supportive, there were concerns that the page limit may be unrealistic considering the content detail required by the draft Guideline.

## SIA Authors

### **Qualifications**

The draft Guideline introduces a requirement for suitably qualified and experienced practitioner/s to be involved in SIA scoping and planning, and to lead authorship of Phase 2 SIA. Several submissions, from a broad range of public and private sector sources, agreed that a Suitably Qualified Person (SQP) is required to undertake a SIA. Among many of these submissions, there was strong support for the emphasis on social science expertise and experience. The importance

of continued development of specialists and professionals to ensure the draft Guideline requirements are able to be met was stressed.

A number of further suggestions were made to the SQP requirements, including:

- inclusion of social and community planning and town planning under the listed suitable qualifications to acknowledge existing industry involvement
- establishment of a requirement that the SQP leads the authorship of all project phases, including Phase 1 scoping and planning
- development of more stringent SQP requirements, for example through a certification or statutory declaration process

The draft Guideline also requires an SQP to have membership of a professional association. This was queried by a small number of submissions that noted a lack of obvious alignment between SIA and a particular professional association.

### ***Bias***

Several submissions noted the inherent bias in the SIA process, as social impact assessment professionals engaged to develop SIA reports are typically procured and paid by proponents. The importance of ensuring independence and objectivity was stressed. One submission suggested that the Department be responsible for commissioning an SQP to undertake SIA for a project, ensuring a degree of separation from the project and proponent. Another suggested that SIA authors be required to clearly set out their qualifications, experience, relationship to proponent, conflicts of interests and fees within the SIA document.

## Consultation and engagement

### Stakeholders and engagement

Over a quarter of submissions referenced the draft Guideline's approach to consultation and engagement. Matters referenced included timing of engagement, stakeholder identification, cost of engagement and best practice examples. Several submissions showed concern regarding the resources required within communities and local organisations to engage with projects. Others expressed concern that low levels of community response may be incorrectly interpreted as support for a project, or a perceived absence of impacts.

Suggestions were also made to enhance community participation, including:

- provision of childcare or other incentives
- involvement of community groups in the design of consultation, to ensure that activities are inclusive and accessible
- development of engagement timeframes that are convenient and accessible to the local community
- provision of independent oversight of engagement, with potential for councils to act in this role.

The draft Guideline lists potential stakeholders to be engaged as part of the SIA. A number of submissions proposed additional stakeholders, including emergency services and peak bodies. Council submissions also sought a stronger role in providing information for SIA and in review and assessment of SIAs in the EIA process.

A small number of submissions suggested greater emphasis within the draft Guideline on 'best practice' engagement and consultation approaches, including reference to key standards such as:

- National Statement on Ethical Conduct in Human Research
- Ethical Guidelines for Research with Aboriginal and Torres Strait Islander Peoples

- International Association for Public Participation, including IAP2 accreditation
- IFC Performance Standards on Environmental and Social Sustainability
- AA1000 Stakeholder Engagement Standard.

## Timing and process

The draft Guideline sets out several community engagement objectives and actions, as well as providing detail of how and when to engage. A small number of submissions, from industry and individuals, raised the risk that engagement can become a 'tick-box' exercise with limited influence over project design or mitigation. These submissions suggested more stringent requirements within the draft Guideline around engagement processes, including mandating some community consultation and making evidence of adequate consultation a requirement for progression in the EIS process.

There were mixed views regarding the timing of consultation and engagement. Several submissions, from across industry, community groups and local government, supported the need for early engagement to ensure communities feel involved and empowered to influence change, and suggested this be further articulated in the draft Guideline. Other submissions, particularly from industry, representative bodies, and social impact assessment professionals, expressed concern for the costs and practicality of early and continued engagement. One suggestion was to streamline SIA engagement with other EIS activities.

## Social impact assessment approach

### Review and merit assessment

The draft Guideline centres around the approach for undertaking an SIA. Over a quarter of submissions requested further information on the process and criteria for review and assessment of SIAs by the Department. Suggestions included:

- development and publication of specific standards and criteria for review and assessment of SIA
- use of the *examples of social impacts* presented in Appendix B as a required checklist
- inclusion of a list of common methodological errors to improve quality.

Several submissions, predominantly from professional associations and academic institutions, referenced concern that the draft Guideline emphasises the importance of compliance with process, instead of consideration of project outcomes and merit. These submissions suggest the need to emphasise that compliance with process will not always result in acceptable developments.

Council and local government organisations advocated for a role in review and assessment, and as a stakeholder and source of information. Conversely, one anonymous submission requested that councils be excluded from the SIA review and assessment process for State significant projects.

Many submissions, from community groups, academic institutions and not-for-profit organisations, suggested the need for local community involvement in SIA review and assessment. Suggestions included providing the draft SIA to community members, and integrating any comments, prior to Department review, and funding, and support (from the Department and/or proponents) for capacity building within community groups to enable them to respond to, and comment on draft SIAs and consultations.

Several submissions, from a range of local and State government, academic institutions, industry, and representative bodies, noted a concern regarding the Department's capacity to appropriately review SIAs. Suggested solutions included the implementation of peer reviews by an independent

third party (consultants or academics, for example) as part of the standard assessment process, and use of the Independent Planning Assessment Commission to resolve potential conflicts.

## Overall process and methodology

### **Phase 1 and Phase 2**

The draft Guideline introduces three phases to SIA. There was general support for the delineation of these phases within the draft Guideline, particularly in enabling the refinement of projects during early stages. Some submissions suggested that all projects should at a minimum provide a Phase 1, 2 and Phase 3 (SIMP), while others suggested all State significant projects should also require Phase 2 SIA.

There were mixed views on the minimum standards for Phase 1, with some requests for further rigidity and detail, alongside concerns regarding the level of input required. One submission also stated a preference for the 2017 Guideline's approach to scoping, which was considered to present more detail.

Several submissions, from a range of local and State government, social impact assessment professionals, industry, and representative bodies, requested further information around process and phasing requirements, including:

- expectations for each phase, noting concern around the duplication of tasks or early onerous requirements
- the form and content of a standalone Phase 1 SIA (where Phase 2 will not be required).

Submissions also suggested several tools that might support implementing the draft Guideline, including a recommended structure or proforma for Phase 1 and Phase 2 SIAs, and a decision tree to help determine whether a Phase 2 SIA is necessary.

### **Topic omissions**

More than 15 submissions, from a broad range of sectors, referred to the omission of climate change from the draft Guideline. Further detail on the relationship between climate change impacts and social impacts, and how to assess these was requested.

A number of other topics were referenced as either omitted, or covered in insufficient detail within the draft Guideline, including:

- public health and wellbeing, and the relationship to social impacts
- free, prior, and informed consent (FPIC).

## Social Locality

The draft Guideline introduces the concept of 'social locality', similar to the idea of an 'area of social influence'. Submissions were generally supportive of this term. Several submissions requested improved definitions or revisions to the considerations set out for defining the social locality. These included suggestions to emphasise the need to:

- recognise the social and cultural connection that people may have to a place, regardless of where they live (particularly Aboriginal and Torres Strait Islander people and communities)
- consider how the locality and scale of impact changes depending on duration for both construction and operation
- consider public interest when developing a social locality, to understand how a major project (e.g. a major city-shaping project) will impact the broader community
- consider both the general public and those directly impacted by a project
- focus on identifying and engaging with those that are within a project's social locality.

There were mixed views regarding the example social localities figures in the draft Guideline. Some submissions, particularly from academic institutions, noted the importance of considering multiple communities and their differing experiences of impacts. Others, particularly from industry and social impact assessment professionals, expressed concern regarding the potential costs and resources required to describe different social localities.

There were also mixed views regarding the level of rigidity proposed for the boundary of a social locality (as indicated in the figure). Some submissions suggested less defined boundaries, noting the lack of clear delineation in communities and of social impacts, while others suggested that the level of fluidity proposed may be challenging to assess. The sectoral split was similar as for the example figures.

A small number of submissions, from individuals, also expressed concern around use of 'social locality' as a term, noting that the term 'area of social influence' is more commonly used in social science.

## Social baseline and evidence base

A range of comments were received that related to baseline and evidence gathering elements of the draft Guideline. Comments from submissions included:

- a request for further detail around baseline requirements, including sources and indicators to consider
- a recommendation to emphasise the importance of a baseline that is tailored to potential project impacts, rather than a broader social context, to reduce the time and resources required in baselining

A suggestion was also made for a 'no go' scenario within SIAs to represent a 'no project scenario'. However, another submission noted that this would be challenging, noting that from inception, a project can potentially impact on the community.

The draft Guideline requires the use of secondary data sources, and suggests that primary data sources may need to be sought out to inform the SIA. There were mixed views regarding this. Some submissions proposed mandatory primary data production to ensure accurate baseline information and impact assessment. Other submissions considered a digital desk-based approach to be more proportionate and attainable. One submission noted the role primary data collation can have in creating perceived social impacts, by generating fear within the community, and emphasised the need for careful consideration of timing where primary data collection is required.

Submissions noted support for the reference to ABS census data within the draft Guideline. However, more information was requested around credible sources and their importance. Another submission suggested the use of local Councils to obtain primary data.

Once submission suggested development of a common data environment for consistent use and data sharing by practitioners that could enhance data collation and the public SIA evidence base in the long term.

## Impact assessment and identification

### *Impact categories*

The draft Guideline defines categories of social impact, which were generally supported by submissions. A small number of submissions, from academic institutions, community groups and individuals, did not support certain changes from the 2017 Guideline, including:

- change of 'personal and property rights' to 'livelihood'
- removal of 'fears and aspirations' as a separate impact category

A number of additional suggestions were made in relation to the categories of social impact, including:

- inclusion of reference to 'living' culture within the 'cultural impacts' category, including worldviews, cultural authority, and lost ability to pass on knowledge
- addition of 'increased risk' as a category, considering a project's potential to increase the risk of natural or man-made hazards
- inclusion of consideration of intergenerational impacts and future populations within the categories
- removal of reference to external uncertainties if there is no means of influencing them.

### ***Impacts to Aboriginal and Torres Strait Islander people and communities***

Many submissions, across all types of submitters, supported the references to considering social impacts to Aboriginal and Torres Strait Islander people and communities. Several submissions made suggestions to further improve the consideration of this topic within the draft Guideline. In particular, submissions suggested that the draft Guideline include reference to:

- a need for relevant Aboriginal and Torres Strait Islander knowledge to be protected and incorporated in relation to every State significant project.
- a requirement for any projects impacting Aboriginal cultural property or natural heritage to be planned and designed in alignment with the community values
- a requirement to always consider the impact to Aboriginal and Torres Strait Islander people and communities when considering public interest
- a requirement to consider the impacts that ongoing intergenerational trauma have on Aboriginal and Torres Strait Islander people and communities
- provision for the procurement of Aboriginal-run and Aboriginal-focussed businesses to undertake the full range of Aboriginal community liaison for the SIA and cultural heritage assessment
- recognition of the statutory rights held by Aboriginal and Torres Strait Islander people and communities through the Aboriginal Land Rights Act 1983.

Several submissions noted that reference to impacts on Aboriginal and Torres Strait Islander people and communities should not be solely focussed on 'cultural' impacts but should also consider the broad range of impact categories these communities may experience.

Several submissions, from a range of sources, also requested further definition and guidance around matters such as 'cultural and spiritual loss', to ensure deeper, widespread understanding and improve recognition of the direct and indirect impacts that projects may have on Aboriginal and Torres Strait Islander people and communities.

A small number of submissions, predominantly from industry and representative bodies, raised concerns over the suggestion within the draft Guideline that proponents engage Aboriginal and Torres Strait Islander people and communities to "identify opportunities for cultural or spiritual growth". It was felt that the breadth of this statement left uncertainty regarding appropriate approaches to undertaking such engagement, with potential resultant risk of inadvertently insensitive approaches. This concern was supported by requests for greater detail on best practice for engagement, which is explored in greater detail in the Consultation and Engagement section.

### ***Impacts to marginalised groups***

A small number of submissions, from individuals and social impact assessment professionals, raised the need to place greater emphasis on the impacts specifically to marginalised or vulnerable communities. This included requests for direction on how to best undertake this assessment, and approaches to respond to impacts. These submissions noted the importance of ensuring that the most vulnerable are not inequitably impacted by a project.

## Impact significance

The Technical Supplement sets out an approach to evaluate the significance of social impacts. Several submissions expressed support for this approach, however, a number expressed concerns regarding specific matters. This included concerns with:

- the combination of risk assessment (consequence and likelihood) with impact assessment (sensitivity and magnitude), which was considered confusing
- the application of the dimension of likelihood to all potential impacts
- the use of 'magnitude' in the place of 'consequence' (as used in the 2017 Guideline) and concern that this changes the application of the tables
- the number of levels of magnitude, particularly difficulty in differentiating between 'minor' and 'minimal' impacts
- the results within the Social Impact Significance Matrix and combinations of magnitude and likelihood score, with concerns that these do not correctly reflect the potential level of significance
- the suggested workshops to assess impact significance, with concerns regarding practicality.

There were mixed views regarding the change in terms from 'transformational' to 'catastrophic' within the social impact significance matrix. Some submissions, predominantly from academic institutions and not-for-profit organisations, expressed concern that the term is too positive, while other submissions, largely from individuals, supported the neutrality of the term.

A small number of submissions, from academic institutions, suggested including two matrices, one for positive impacts and one for negative impacts, which may aid the goal of having a more balanced view of a project's potential impacts. A suggestion was also made to amend the thresholds for magnitude and likelihood to account for lower thresholds for vulnerable communities.

Some submissions, from academic institutions and social impact assessment professionals, suggested removing the tables and evaluation of significance from the SIA methodology due to the potential subjectivity resulting from the breadth of variables within the tables and range of possible interpretations.

A small number of submissions, from impact assessment professionals, objected to the term 'net impact'. These submissions noted that the experience of negative impacts in particular, is unlikely to be uniform, and positive impacts will not always outweigh those negative impacts, particularly for vulnerable communities who are likely to experience these more acutely.

## Cumulative impacts

The draft Guideline summarises an approach to assessing cumulative social impacts. There was general support for this element of the draft Guideline, from a range of submission types. Several submissions requested further detail and exploration of the topic to help understand requirements and ensure it is properly considered within SIA. Advice was also requested on specific topics associated with cumulative impacts, including the process for mitigation and management.

A small number of submissions, from industry and social impact assessment professionals, suggested it is unreasonable to expect proponents or practitioners to assess cumulative impacts, particularly in areas of intense development, noting they may not have access to all relevant information. Local councils were identified as playing an important role in supporting this process.

Several submissions, particularly from academic institutions and impact assessment professionals, suggested the Department play a more active role in identifying cumulative impacts. Suggestions included a Strategic Regional Assessment led by the Department to identify cumulative developments, and scoping meetings to discuss and agree developments to be considered.



## Social Impact Management

The draft Guideline sets out an approach for responding to identified social impacts. Several submissions commented on this approach, including suggestions for:

- the inclusion of the criteria of ‘tangible, deliverable and durably effective’ for mitigation measures (noting the case study examples in the draft Guideline do not meet this criteria)
- the request for greater transparency in development of mitigation measures, for example through consultation with the community
- the requirement of mandatory local procurement and employment measures
- the requirement for assessment of impacts to take into account any mitigation which has been integrated into design or planning.

The draft Guideline also outlines Phase 3 – the Social Impact Management Plan (SIMP). There were mixed views on the SIMP as a means of planning and defining the approach to mitigation and management. Some submissions, from academic institutions, expressed concern that the SIMP does not extend beyond the operation of a project, and does not take into account the financial conflict as a result of the proponent’s management of the SIMP. Further submissions, from industry and impact assessment professionals, suggested the SIMP framework is too rigid and prescriptive. A small number of submissions from social impact assessment professionals expressed concern around requirements to manage unanticipated impacts.

For others, including a number of submissions from academic institutions, community groups, local government, and industry, there was strong support for the SIMP, but requests for further detail or suggestions including:

- clarity that issues unrelated to the project and matters that are beyond the control or responsibility of the proponent are not to be included
- SIMPs to be made public
- SIMP to form part of Phase 2 rather than Phase 3 SIA
- SIMPs to form part of conditions for consent, and linked to planning mechanisms such as Voluntary Planning Agreements.

The importance of developing an effective, transparent method for reviewing, implementing, and monitoring SIMPs was referenced. Key points raised, included:

- queries as to approach and responsibility for enforcement, including the importance of the Department in implementation and monitoring
- support from a small number of submissions (predominantly from academic institutions, local government, and not-for-profit organisations) for enforcement measures if mitigations are not adequately undertaken
- the need for continued community engagement
- monitoring through perception surveys or a grievance mechanism
- a feedback loop throughout the life of a project should be required, for example, if there are significant unanticipated impacts, amendments to projects and/or mitigations could be required.

A small number of submissions, from social impact assessment professionals, demonstrated a need for greater data sharing, particularly regarding post analysis, that could help build capacity across the State regarding common impacts and mitigations that may or may not be successful.

## Determining an application

### Role of SIA in determination

A small number of submissions, predominantly from academic institutions, industry, representative bodies, and State government, referred to the role of SIA reports in the decision-making process. The majority of these suggested that SIAs should have greater influence, and where relevant, that social impacts may form the basis of project refusal if it generates unacceptable social impacts. Conversely, it was suggested by one submission, from an academic institution, that while social impacts are to be considered in the decision-making process, they should not be deciding factors in determining an application outcome, as they are one of many environmental impacts.

### General comments

This section summarises submissions received that commented on a number of issues including language and key terms, examples and sources, document structure, guideline accessibility and transition processes.

### Language and messaging

The draft Guideline notes that SIA reports should describe how a project may both negatively and/or positively impact people. Several submissions expressed concern that the draft Guideline overemphasises one type of impacts – with mixed views on whether the focus is overly positive (a small number of submissions from predominantly academic institutions), or overly negative (a small number of submissions from across a range of private, public and tertiary sector respondents).

A small number of submissions, predominantly from academic institutions, not-for-profit organisations and individuals, called for the use of stronger, more directive language. These submissions referenced the use of words such as ‘may’, ‘should’ or ‘suggest’ within the draft Guideline as passive terms which could be perceived as ambiguous and act as ‘escape provisions’ for proponents. Some of these submissions also expressed a desire for the draft Guideline to be adopted as a statutory process and to be made a requirement for State significant projects.

Several submissions noted that the draft Guideline and Technical Supplement is inconsistent in terminology relating to Aboriginal and Torres Strait Islander people and communities, sometimes referred to as just Aboriginal. It was suggested that the terms used should be consistent, as these terms convey different meanings.

Several submissions requested clearer or changed definitions for a number of terms used throughout the draft Guideline, to avoid ambiguity and address incorrect interpretations. In particular, there were suggestions made to remove ‘businesses’ from the definitions for ‘community’ and ‘people’.

### Sources and case studies

The draft Guideline uses a series of case studies and examples to support text. Several submissions commented on the scope of these examples. Comments included concern that:

- the examples, particularly within the Technical Supplement are overly negative and use emotive, rather than objective language.
- certain examples, particularly relating to mitigation examples, are not relevant and do not meet the minimum requirements within the draft Guideline.

A number of additional case studies were also suggested by a number of submissions, including examples of:

- integration of specialist study outputs into the SIA

- best practice collaboration to identify community benefits
- SIMP for particular topics e.g. affordable rental housing options
- health impacts of developments.
- best practice where Aboriginal organisations lead or play a central role in SIA

Another submission also requested inclusion of further project examples in Appendix B of the Technical Supplement, including a major transmission line.

One submission also suggested detail be provided around the 'Rocky Hill judgement' to justify support for Vanclay's categorisation of impacts.

The draft Guideline references a number of sources. A small number of submissions suggested that the draft Guideline could draw on, or show clearer links with best practice from a breadth of other sources, including:

- International Association for Impact Assessment
- United Nations Sustainable Development Goals
- The United Nations Declaration on the Rights of Indigenous Peoples
- the Liveable Housing Design Guide and Accreditation Standards
- Sources that explore the complexities of social housing redevelopment, including Local Health Districts, and community and NGO views.

## Accessibility and legibility of draft Guideline

The draft Guideline is made up of a 'main' Guideline document and a Technical Supplement. Submissions contained mixed views on the separation of the two documents. Some submissions were supportive of the technical supplement, and found the approach legible and easy to engage with. Several other submissions, from a range of industry, impact assessment professionals and academic institutions, expressed opposition to the split between the two documents. The reasons for this were varied, including concern that:

- the Guideline document does not contain sufficient detail, and content from the Technical Supplement should be transferred
- the Guideline document is overly comprehensive, and content should be transferred to the Technical Supplement
- the Technical Supplement is a repetition of the Guideline document.

Of the submissions that raised this matter, a small number suggested that there may be merit in combining the two reports. A small number of submissions also suggested the Technical Supplement was more legible than the Guideline document.

Several submissions raised matters in relation to the accessibility of the draft Guideline more generally. In particular, suggesting that:

- translation into major Aboriginal languages may be necessary and appropriate
- provisions to assist those from non-English speaking backgrounds should be made
- use of technical language should be minimised to ensure accessibility for all audiences
- hard copies of the draft and final Guideline should be made available at local community centres and councils.

A small number of submissions commented on the draft Guideline development process, highlighting the success and importance of the Department-run information sessions. One submission from an academic institution raised concern that there had not been an information session specifically for Aboriginal peoples, marginalised groups, or civil society organisations.

## Implementation

A small number of submissions, from industry, representative bodies, and social impact assessment professionals, raised concerns regarding clarity of the transition process from the 2017 Guideline to the draft Guideline, once it is finalised. In particular, submissions:

- requested that already lodged or substantially progressed EIS not have to be updated to comply with the draft Guideline, when adopted
- noted that the existing transition advice does not mention arrangements for modifications
- expressed concern that the Department's level of discretion regarding the retrospective application of the draft Guideline may lead to delays and increase costs.

A small number of submissions, predominantly from community groups, expressed concern that the draft Guideline will not be well implemented when adopted; an implementation plan was recommended to support this process. Another submission suggested the need for a monitoring, evaluation, and improvement process for the draft Guideline, to assess ongoing consistency and effectiveness. This recommended the inclusion of feedback/engagement sessions with practitioners and proponents.

## Alignment with EIS and wider planning

Several submissions referred to the relationship between the draft Guideline and other Department initiatives and processes, and suggested amendments or improvements including:

- the inclusion of the Guideline – when finalised – in the Environmental Planning and Assessment Act 1979 (NSW) as amended (the EPA Act) by inclusion in the Regulations to the EPA Act
- changes to the EIS process through the Department's EIA Improvement Project.

One submission noted the removal of some valued text regarding integration with EIS from the 2017 Guideline.

Concern was raised regarding overlap with EIS processes and potential duplication or double counting of impacts. Refinements were suggested by a few submissions to explain the role of the EIS to integrate a wide range of assessments, and the importance of considering other impact assessment outcomes within the SIA. Opportunities for better alignment and synthesis of SIA and EIS data were noted, including requests for greater clarity within the draft Guideline on how other EIS technical studies should be evaluated alongside SIA; ensuring technical metrics are balanced alongside lived experience in assessment. One submission advocated for a blended approach to SIA with other impact assessments such as health impact assessment to enable efficiencies in the EIS.

A small number of submissions also considered the role of SIA in the wider planning system, suggesting outputs from SIA and SIMP are embedded into future policy and development, and suggesting SIA is undertaken on all strategic planning, policy changes and rezoning gateway processes.

## Other matters

A number of other matters were raised by a small number of respondents that were not directly relevant to the content of the draft Guideline. These matters included:

- a concern that the approvals and complaints process for State significant development is lengthy, uncertain, and stressful
- a concern regarding the modifications process, and changes allowed post approval
- a reference specifically to energy projects, and the potential challenges regarding council and community involvement, with experienced impacts to wellbeing, and a feeling of lack of trust in the system to protect local community interests
- a reference to opportunities to support renewable energy and low carbon futures through investment in energy projects
- a concern regarding overdevelopment, and the need for residents to be protected against adverse impacts
- suggested work for the department regarding public housing development, and the implications of relocation
- a request for publicly available information on details of land resumption for State significant developments
- a suggestion for NSW Treasury to recognise a standard economic methodology that costs social and environmental benefits
- some commentary around transport and infrastructure ownership and delivery
- some commentary on particular schemes and their alignment with the draft Guideline.