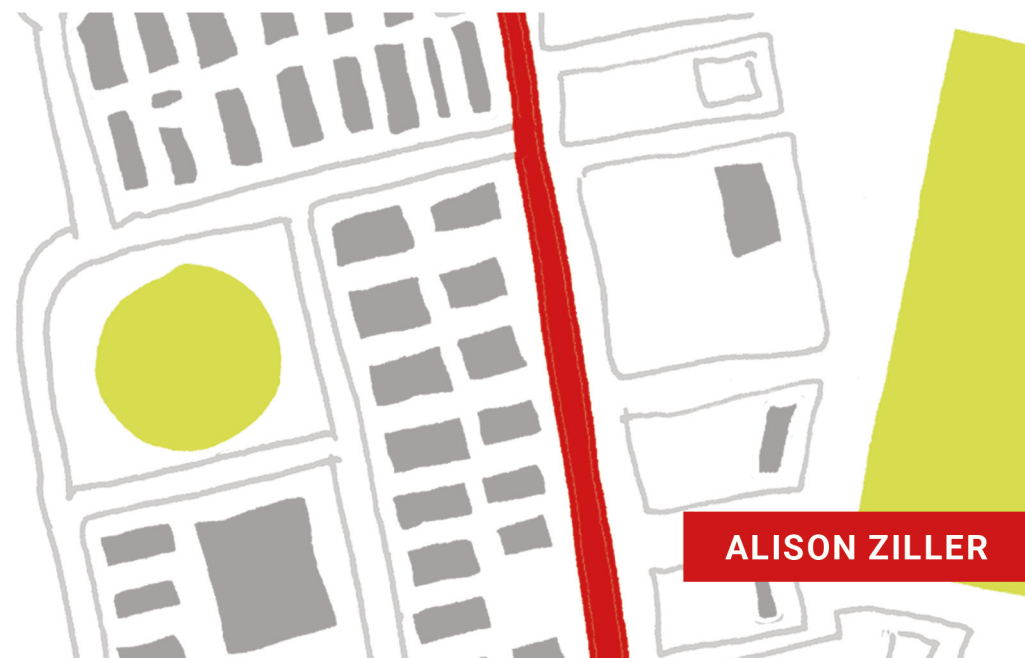




# **SOCIAL IMPACT ASSESSMENT:** the good, the bad, and the unbelievable

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A guide for reviewers



**ALISON ZILLER**

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**A guide for reviewers**

**ALISON ZILLER**

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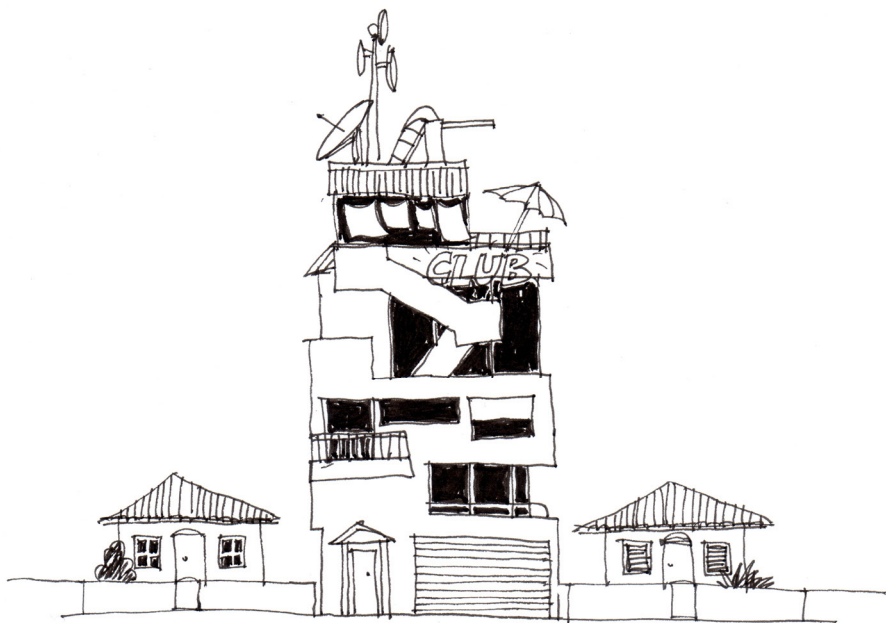
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**Alison Ziller, March 2021**



*Joe Blossfs has a Grand Design.*

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# Abbreviations

<b>.id</b>	profile.id <a href="https://profile.id.com.au">https://profile.id.com.au</a>
<b>ABS</b>	Australian Bureau of Statistics
<b>AIHW</b>	Australian Institute of Health and Welfare
<b>BOCSAR</b>	NSW Bureau of Crime Statistics and Research
<b>CIS</b>	Community impact statement (NSW Liquor Act)
<b>Council</b>	Local government authority
<b>DA</b>	Development application
<b>DPE</b>	NSW Department of Planning and Environment (now Planning, Industry and Environment)
<b>DPIE</b>	NSW Department of Planning, Industry and Environment
<b>EP&amp;A Act</b>	NSW Environmental Planning and Assessment Act
<b>ILGA</b>	Independent Liquor and Gaming Authority (NSW)
<b>IPC</b>	Independent Planning Commission (NSW)
<b>LEC</b>	Land and Environment Court (NSW)
<b>LGA</b>	Local government area
<b>LIA</b>	Local impact statement (NSW Gaming Machines Act)
<b>NCAT</b>	NSW Civil and Administrative Tribunal
<b>PHIDU</b>	Public Health Information Development Unit
<b>SA1</b>	Statistical area level 1, small areas, average 400 persons
<b>SA2</b>	Statistical area level 2, aggregations of whole SA1s, e.g. suburb, 3,000 - 25,000 persons
<b>SA3</b>	Statistical area level 3, aggregations of whole SA2s into regions, 30,000 – 130,000 persons
<b>SEIFA</b>	Social and economic indexes for areas (calculated by the ABS)
<b>SEIFA IEO</b>	SEIFA Index of education and occupation
<b>SEIFA IER</b>	SEIFA Index of economic resources
<b>SEIFA IRSAD</b>	SEIFA Index of relative advantage and disadvantage
<b>SEIFA IRSD</b>	SEIFA Index of relative social disadvantage
<b>SOFC</b>	Statement of Facts and Contentions (for an LEC hearing)
<b>USQ</b>	University of Southern Queensland



# Introduction

Social impact assessments [SIAs] are required by various authorities and laws as a precautionary step to inform decision making. The aim is to ensure that a decision maker has valid, relevant and reliable information about the likely social consequences of what is proposed, in order to make a sound decision in the public interest.

Under current systems, a SIA is usually paid for by the project proponent. In practice no project proponent submits a SIA that does not support the project. Several guides are available for people who prepare SIAs<sup>1</sup> but far more people read and review SIAs than write them. SIAs are reviewed by staff in public sector agencies and consent or decision-making authorities, but they are also read and reviewed by community members and organisations in order to prepare submissions about a proposed project.

This guide is for primarily for people who read and review SIAs. However, SIA authors can use this guide to present their assessments in ways that anticipate how they will be evaluated.

## **This guide is in five parts:**

- i. A guide to social impact assessment as a process
- ii. A guide to the social impact content of a merit assessment
- iii. How to prepare a review of an SIA quickly and present it effectively
- iv. Common sources of error and bias in SIAs
- v. Background information and resources.

All the examples used in this guide are drawn from actual SIAs. This guide refers to laws and practices in NSW Australia, however, the assessment issues and SIA review framework described are not specific to either Australia or one Australian state. The approach used to read and review a SIA can be applied in many contexts. What follows is not a theoretical discussion of what SIAs should be like, but a practical guide to the ways in which SIAs often fall short and how to notice when this happens.

## **Links, references and footnotes**

References are provided in footnotes and again in a list at the end of the document. Some references have hyperlinks attached. These were correct at the time of going to press.

<sup>1</sup> For example, NSW Department of Planning & Environment 2017, SIA guidelines for State significant mining, petroleum production and extractive industry development

# PART 1: Who does what?

## SIA as a process

### 1 WHAT IS SOCIAL IMPACT ASSESSMENT?

Social impacts are the consequences of actions on groups of people and on society. Social impacts can be positive or negative. Social impact assessment [SIA] is the identification and appraisal of likely social impacts, whether intended or unintended, short or long term, of a proposed event such as a project, a development, or a policy. Social impact assessment takes place before the project or event takes place. It involves looking ahead in order to avoid bad outcomes and to identify opportunities for good outcomes. This is different from an evaluation which takes place after the event.

### 2 STEPS

Most social impact assessment guidelines expect that the person preparing a SIA will follow a process of information gathering and assessment, summarised in these basic steps:

**Table 1: Procedural steps**

Step	Action	Description
1. Screening	Asking	Is an SIA needed?
2. Scoping	Asking	What are the likely issues? Who is involved?
3. Baseline	Understanding	What is there now?
4. Likely impacts	Understanding	What are the likely, intended and unintended outcomes?
5. Respond to change	Checking	Has anything changed since we began?
6. Mitigations	Considering	Could some changes to the proposal improve the outcomes?
7. Write, sign & date the SIA	Writing	The social impact assessment

---

### 3 STANDARDS

Most SIA guidelines recommend standards for a good SIA.

These standards generally include:

**Table 2: Procedural standards**

Step	Action	Description
1. Screening	Asking	Multiple opportunities (via a wide range of information and consultation processes) for stakeholder feed-back and submissions
2. Scoping	Asking	
3. Baseline	Understanding	Proper documentation of a relevant social baseline / social profile
4. Likely impacts	Understanding	Impartial application of social science research findings to understand likely impacts
5. Respond to change	Checking	Impartial review of new information
6. Mitigations	Considering	Precautionary assessment of likely social consequences in the short and long term; consideration of ways to reduce or remove likely social harms
7. Write, sign & date the SIA	Writing	Authorship and date of assessment

The SIA you are examining may skimp or avoid any of these.

It is important to be able to see when this happens.

### 4 WHO TAKES PART?

Many people take part in social impact assessment. The roles described here are used in NSW land use planning contexts where SIAs are required, received and managed as part of a development application process.

**Table 3: SIA participants**

Participant	Often called the	Responsibility
Project owner	Proponent or Applicant	Overall responsibility for the application to approve the project, e.g. a mine
Author of a SIA prepared for the owner	SIA author	Prepares a SIA for the owner to submit with the development application, for example as part of an Environmental Impact Statement
Objector	Objector or stakeholder	Makes the case against the project or against aspects of it May prepare a separate SIA
Author of a critique of the SIA	SIA reviewer	Reviews the submitted SIA on behalf of an objector or a decision maker May provide their review as a new SIA
Decision maker	Consent authority In NSW this may be a planning panel or a council for most DAs or the IPC for major projects	Decides whether to permit or refuse an application. This is also called a determination of the project
Decision maker on appeal	Consent authority In the event of an appeal the DA is determined by a judge or commissioner in the NSW Land and Environment Court [LEC]	Decides whether to approve or refuse an application which is the subject of an appeal

## 5 WHO ASSESSES AND WHO DECIDES?

### Planning

**1. The proponent** A project proponent usually presents a SIA if this is required, or they think it will help their development application.

**2. The reviewing officer** in the consent authority reads the SIA and writes a review report for the planning consent authority which can be a council, or a planning panel at the local or regional level, or the DPIE or the IPC at the state level.

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**3. The planning consent authority** reviews the proponent's SIA, any submissions, and the reviewing officer(s)' report(s) as part of a development assessment. The consent authority makes its own assessment. This decision may be appealed in some cases.

**4.** On appeal the **LEC** makes the final decision. At the appeal stage there is often a new SIA from the applicant, new submissions from some stakeholders and a new SIA review report from the council. The LEC makes its own assessment of social impacts.

**Note** there is no appeal to the LEC from an IPC decision - unless the IPC has made a determination without holding a public hearing.

### **Liquor licence and gaming machine applications**

If the proposal involves liquor and/or gaming machines separate application processes begin. The proponent may present the same SIA as previously. The Independent Liquor & Gaming Authority [ILGA] may require an impact statement (currently this is a list of required information).

**5. ILGA** reviews the proponent's SIA (e.g. for a hotel, bottle shop, gaming machines) and makes a decision based on its assessment of social impacts on the community (see legislative extracts in Part 5 for precise wording of the test to be applied).

**6.** Limited merit appeal - mainly for applicants<sup>2</sup> - is available to the NSW Civil and Administrative Tribunal [NCAT].

### **Some important things to note**

Where a decision made by a planning panel is appealed, it is the council, not the panel which defends the decision in the LEC. The council may have disagreed with the panel's decision or been lukewarm about it.

Some liquor licence applications bypass the planning process (e.g. change of retail use where retail is a complying development).

s209 of the NSW Gaming Machines Act, prohibits planning authorities from making decisions about gaming machines. However this does not include betting and wagering (TAB and sports bars).

<sup>2</sup> Ziller Alison 2017, Eroding public health through liquor licencing decisions, J Law and Medicine, 25/2, p 500.

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## 6 KINDS OF SIA

Most traditional guides treat SIA as a one document, or one process, concerning a project. However as Table 3 shows, a project may give rise to more than one SIA, namely:

### **The proponent's SIA**

This is the SIA paid for by the proponent of a development, policy or project (e.g. an event). It may include a list of pros and cons, but it always makes the case for the proposal, and argues that all adverse social impacts are manageable.

### **Stakeholder SIAs**

Prepared by a community group, an industry group or other stakeholder, for example, a public health agency. Stakeholder SIAs may represent a vested interest or present the public interest.

Stakeholder SIAs are usually smaller documents due to being prepared on smaller budgets and within time constraints. A stakeholder submission may be a mini SIA. It may also contain a critique of the proponent's SIA. These stakeholder SIAs may contain local information and/or a point of view not found in the proponent's SIA. As such they can be a valuable resource.

### **The advisor-to-the-consent authority's SIA**

The consent authority can be a planning panel, a council (local government authority), DPIE, the IPC, ILGA, a court, or a tribunal.

Consent authorities may rely on in-house staff to review and provide advice on the proposal taking account of SIAs and submissions received, or may commission an independent SIA. Either way, the resulting documents are social impact assessments.

### **The consent authority's SIA**

The consent authority makes a final social impact assessment of the proposal – as required by the NSW Environmental Planning & Assessment Act [EP&A Act] and/or the NSW Liquor and Gaming Machines Acts (relevant sections are included in Part 5). These Acts require the consent authority to make a decision in the public interest including having regard to social wellbeing.

### **Summary**

SIAs come in several forms and may be attached to proposal documents, submissions and decisions. Each kind of SIA is an assessment of likely social consequences.

## 7 THE PROCESS FROM DA TO APPEAL

**Table 4: The steps to expect when a DA is lodged with a Council**

Step	Action	Outcome
1. Council (local government authority) is notified about a DA	Council considers whether social impacts are likely to be key issues	An initial scoping of social impact issues may be provided by the Council
2. DA is lodged and may include an SIA.	Council notifies nearby residents as required in the Development Control Plan	Local residents may lodge submissions including a critique of the SIA
3. A council officer assesses the project on social impact grounds	Key social impact issues are identified and documented in the Assessment Report	DA + Assessment Report is referred to the consent authority
4. Consent authority considers the application	Application is determined. If refused, the applicant may decide to appeal. There may be a time limit for this	Applicant prepares an SIA for the appeal process
5. Applicant appeals	Council may commission a comprehensive social impact assessment for use in court proceedings	Two SIAs in preparation, one for the applicant and one for the Council.
6. Council and legal team prepare Statement of Facts and Contentions [SOFC]	The social impact Contention has Particulars based on the comprehensive SIA prepared for Council	SOFC in which discrete social impacts are particularised (i.e. detailed)
7. LEC sets deadline for lodgement of SIAs	SIAs of social impact witnesses exchanged	Council reviews applicant's SIA
8. Joint report process	SIA experts representing the applicant and respondent(s) prepare a joint report	Some disputes about key issues can be resolved at this stage
9. Draft conditions of consent	Council's SIA expert is consulted on social impacts of proposed conditions	Council's SIA expert assists the legal team identify mitigations
10. The matter is heard in the LEC	The witnesses are heard	There is a decision

Similar steps occur in other jurisdictions

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## 8 THE PROCESS FALLACY

**Many SIA guidelines address the question of SIA content in two ways:**

- i. by saying that the SIA author should have a social science qualification, and
- ii. by providing a list of topics within which the key social impact issues of a particular SIA might fall.

In practice a social science qualification is widely interpreted and no guarantee of expertise in SIA. As well, no list of topics is complete – most lists do not include the social impacts of climate change for example – and lists do not help SIA authors determine which issues are the ones that matter in a particular instance.

This approach facilitates the process fallacy - the idea that if a SIA author follows the procedural steps set out in most guidelines (Tables 1 and 2 above), the resulting SIA will succeed in presenting a valid assessment in terms of the social impacts of a proposal. This is incorrect. A SIA requires attention to both process and content, or to both procedural requirements and matters of substance.

**The Australian Law Reform Commission says procedural fairness means**

acting fairly in administrative decision making.  
It relates to the fairness of the procedure by which a decision is made, and not the fairness in a substantive sense of that decision.<sup>3</sup>

In effect, a process that is procedurally fair may improve the chances of producing a substantive, relevant and impartial SIA but there is no guarantee that it will do so.

Both procedure and substance are vulnerable to bias, lobbying and undue influence. For this reason, some jurisdictions set out the yardstick to be applied to the substance of a decision. For example:

<sup>3</sup> Australian Law Reform Commission, 2018, Traditional Rights and Freedoms – Encroachments by Commonwealth Laws (ALRC Report 29), 2 March, ch 14, p 394 [https://www.alrc.gov.au/wp-content/uploads/2019/08/fr\\_129ch\\_14.\\_procedural\\_fairness.pdf](https://www.alrc.gov.au/wp-content/uploads/2019/08/fr_129ch_14._procedural_fairness.pdf)



**Table 5: Examples: procedural and substantive fairness requirements**

Issue	Procedural requirements	Substantive requirement
Should a new hotel be approved?	<ul style="list-style-type: none"> <li>• notify residents</li> <li>• invite submissions</li> <li>• consider contents of submissions</li> </ul>	'the overall social impact... will not be detrimental to the well-being of the local or broader community' (s 48(5) of the NSW Liquor Act)
Should a tower block be permitted on this site?	<ul style="list-style-type: none"> <li>• consider social data</li> <li>• consider comparable situations &amp; likely outcomes</li> <li>• make an unbiased decision</li> </ul>	the likely social impact in the locality (S4.15 (1) (b) of the NSW EP&A Act) will meet the objective 'to promote the social and economic welfare of the community' (s1.3 (a) of the NSW EP&A Act)

The NSW Gaming Machines Act 2001 sets out – and distinguishes between – these two requirements very clearly, saying

- S36(3) The Authority may approve an LIA<sup>4</sup> only if it is satisfied that:
- (a) the LIA complies with the requirements of this Division and the regulations in relation to the LIA, and
  - (b) the LIA has demonstrated that gambling activities in the relevant venue will be conducted in a responsible manner, and
  - (c) in the case of a class 1 LIA:
    - (i) the proposed increase in the gaming machine threshold for the relevant venue will provide **a positive contribution towards the local community** where the venue is situated, and ....
  - (d) in the case of a class 2 LIA:
    - (i) the proposed increase in the gaming machine threshold for the relevant venue will have an **overall positive impact on the local community** where the venue is situated,... (emphasis added).

Sections 36 (3) (a) and (b) refer to procedural requirements and s36(3)(c)(i) and (d)(i) set the substantive requirement that a decision to approve has to meet.

<sup>4</sup> LIA is a local impact assessment

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Where an appeal against a decision of a consent authority is allowed on a merit basis (a merit appeal)<sup>5</sup>, the grounds for appeal can rest on either procedural or substantive failure, or both.

These requirements are responsibilities placed on consent authorities and SIA authors are not decision makers. However, SIAs are undertaken in order to identify the likely social impacts of a proposal and provide expert advice to decision makers. This advice should include whether in the opinion of the SIA author, the net substantive impact of the project or development will be socially negative or positive.

<sup>5</sup> Merit appeals may be limited, e.g. decisions of the NSW IPC are not subject to merit appeal if the IPC has held a public hearing; NSW Liquor laws limit the capacity of surrounding occupiers to a proposed licensed premise seeking to obtain a review of an approval decision, to a narrow radius for a limited type of license applications and only those persons who lodged an initial objection.

# PART 2: What we are looking for?

No matter how well procedures have been followed, what matters in terms of outcome is the substance of the resulting assessment. A SIA should address the social merits of what is proposed, that is, whether the overall social impact will be positive or negative.

Assessing the social merits of any proposal requires specific knowledge and expertise. Some of this knowledge and expertise applies to all SIAs, while some issues, such as proposed liquor licensed premises, aged care facilities, boarding houses, resource extraction (to name some common subject areas) may require additional specific expertise.

This Part provides a guide to social content issues applying to all SIAs.



## PUBLIC HEALTH AND ITS SOCIAL DETERMINANTS

Public health refers to the health and social wellbeing of society. This is not just a matter of rates of disease and ill health but also refers to the social conditions which support or undermine health and well-being. WHO notes that avoidable inequalities in health and well-being arise from

... the conditions in which people are born, grow, live, work and age and the systems put in place to deal with illness. The conditions in which people live and die are, in turn, shaped by political, social, and economic forces... The development of a society, rich or poor, can be judged by the quality of its population's health, how fairly health is distributed across the social spectrum, and the degree of protection provided from disadvantage as a result of ill-health.<sup>6</sup>

<sup>6</sup> Commission on Social Determinants of Health 2008. Closing the gap in a generation: health equity through action on the social determinants of health. Final report of the Commission on Social Determinants of Health. Geneva: WHO. <https://www.who.int/publications/i/item/WHO-IER-CSDH-08.1>

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Public health is a primary indicator of social wellbeing. This is because key health data are headline indicators of social conditions. Like the proverbial canary in the coalmine, they are highly visible and easily understood portends of social adversity. Commonly used indicators include: life expectancy and death rates, hospitalisation and morbidity rates, crime rates, rates of housing stress and homelessness, social benefits claim rates, and the social gradients of income and wealth – the size of the gap between rich and poor<sup>7</sup>.

Many of these rates are also relatively more available and up to date than other indicators. However other indicators also exist. For example social surveys are regularly undertaken to measure levels of social trust which is also an important component of social wellbeing<sup>8</sup>.

It is important not to confuse the indicator (e.g. falling rates of life expectancy) with the social conditions they reflect (rising inequality and increased poverty). A primary aim of SIA is to signal when projects or policies are proposed which will seriously undermine social wellbeing.

## DISTRIBUTIONAL EQUITY

A substantial body of research has demonstrated that more unequal societies have worse public health<sup>9</sup>. A risk to public health arises when a development or policy is proposed which will increase income and/or wealth inequality in society by impoverishing people who are already poor and enriching people who are already wealthy.

Income inequality is often accompanied by other distributional issues. For example social costs may be experienced by people living close to a project while the social benefits are experienced by people living elsewhere. This is a form of intra-generational (present generation) inequity. The principle of intra-generational equity is defined as

The benefits from the range of planned interventions should address the needs of all, and the social impacts should not fall disproportionately on certain groups of the population, in particular children and women, the disabled and the socially excluded, certain generations or certain regions<sup>10</sup>.

<sup>7</sup> AIHW 2016, Australia's health 2016, Australia's health series no 15. Cat. No AUS 199: <https://www.aihw.gov.au/getmedia/11ada76c-0572-4d01-93f4-d96ac6008a95/ah16-4-1-social-determinants-health.pdf.aspx>

<sup>8</sup> E.g. ABS 2019, General Social Survey: Summary Results, Australia, 30 September: <https://www.abs.gov.au/statistics/people/people-and-communities/general-social-survey-summary-results-australia/latest-release>

<sup>9</sup> Wilkinson R & K Pickett 2012, *The Spirit Level: Why More Equal Societies Almost Always Do Better*, London, Penguin.

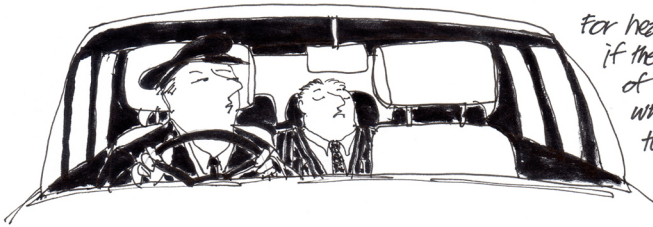
<sup>10</sup> Vanclay F 2003, *International Principles for Social Impact Assessment, Impact Assessment and Project Appraisal*, 21,1 p10

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Social impacts can have long term effects and these may fall more heavily on future than on present generations (e.g. the social impacts of climate change). The principle of inter-generational (future generations) equity is defined as

Development activities or planned interventions should be managed so that the needs of the present generation are met without compromising the ability of future generations to meet their own needs<sup>11</sup>.

Distributional equity is often treated as a social justice issue. However, the clear nexus between social justice and public health, and use of public health indicators as risk indicators for social impacts, mean distributional equity is also a public health issue.



*For heaven's sake, Carstairs,  
if there were no displays  
of ostentatious wealth,  
what would there be  
to aspire to?*

## THE PRECAUTIONARY PRINCIPLE

Social impact assessment is undertaken in order to prevent developments which will result in seriously adverse social outcomes. Prevention requires foresight, prediction, assessment and, as necessary, refusal or effective modification of what is proposed. Foresight and safeguards are the essence of precaution<sup>12</sup>. The precautionary principle is the basis of all impact assessment.

The precautionary principle requires decision makers to err on the side of caution when the extent of likely adverse impacts is in doubt.

Where there are threats or potential threats of serious social impact, lack of full certainty about those threats should not be used as a reason for approving the planned intervention or not requiring the implementation of mitigation measures and stringent monitoring<sup>13</sup>.

A precautionary decision is expected to be in the public interest.

<sup>11</sup> Ibid

<sup>12</sup> Definition of precaution, Merriam-Webster Dictionary: <https://www.merriam-webster.com/dictionary/precaution> viewed March 2021

<sup>13</sup> Vanclay F. 2003, International Principles For Social Impact Assessment, Impact Assessment and Project Appraisal, 21:1, p10

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## THE SOCIAL AS THE PUBLIC INTEREST

Many people find it difficult to discuss social impacts because something that is done for the common good, for the benefit of many, may also have a negative social impact on some individuals. Here are some typical scenarios in which this issue occurs:

**Example:** will the expensive new change rooms benefit everyone or just the residents of a wealthy beachside suburb? (distributional equity consideration)

**Example:** should bottle shop trading hours be extended even though this is likely to result in an increased rate of domestic violence among the shop's customers? (precautionary consideration)

**Example:** straightening out a sharp bend in the road will reduce accidents but what about the Jones-Smith house which will have to be knocked down? (distributional equity and precaution considerations)

Each of these scenarios requires an assessment. It should be made on the basis of relevant knowledge and information and have regard to public health. There is no formula for a 'right' answer.

Ironically, difficulty focussing on social rather than individual impacts may also arise when people are talking about the social determinants of health. This is because most health services are delivered to individuals and often the social determinants of health are discussed by health service providers with regard to individual health.

**Example:** A person might say: 'individuals suffering from stress due to insecure employment or low wages should consult their doctor...'



The Precautionary Principle

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However, a public health approach considers the impact of a proposed policy or project on society as a whole or on social groups, such as social classes, and areas such as states, towns and regions, and particularly focuses on two issues:

i. **the social gradient:** Will the proposed policy or project make the social gradient (the gap between rich and poor) worse? Will it entrench a steep social gradient?

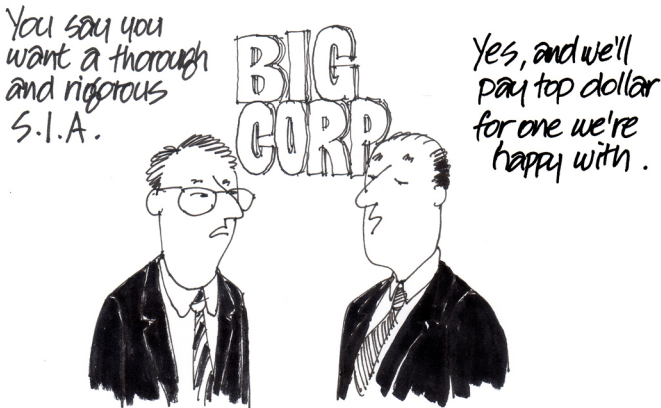
and

ii. **spatial segregation:** Will the proposed policy or project result in rich and poor households being spatially segregated? Will it result in spatial segregation becoming more acute?

It is always the case that an assessment requires the relative merits of a social good to be weighed against the likely disadvantages to individuals and to groups of people and society as a whole. The precautionary and distributional equity principles, among others, are intended to assist this assessment.

## ACCOUNTABILITY

Social impact assessments and merit decisions are made by people. They are made in the context of knowledge and circumstances prevailing at the time. All SIAs should therefore be signed and dated. SIAs prepared by anonymous persons, or apparently no one in particular in a consulting firm in an unspecified timeframe, at best suggest that no one wants to be held accountable for the contents. There is no better way of indicating to the reader that the assessment lacks merit.



# PART 3: How to review a SIA in 5 steps

A quick way to get a good picture of what a SIA is saying is to use summary tables. This section provides examples of completed tables. Blank tables are set out at the end of this guide.

## STEP ONE

### **Summarise the SIA's claims**

On the basis that no executive summary in a SIA omits issues on which the SIA author wishes to rely, most executive summaries list the social benefits identified in a SIA. However, the same cannot be said for social costs. In the example below, only the first two items on the social cost list were included in the SIA's executive summary.

The summary table is just a summary not a critique. Quote the SIA's own words or make a faithful and impartial summary of what the SIA says. Note that the two columns are independent of each other. Where a SIA presents costs and benefits in the order of perceived priority (most important first etc.), it is useful to reflect that in each column.



**Summary Table 1: Social costs and benefits identified in the SIA**

Social benefits identified in the SIA	Social costs identified in the SIA
Approximately 130 construction jobs or 10% of anticipated construction jobs	Additional demand on time of landholders, loss of privacy due to presence of workforce uncertainty about the project
Small number (20-40) of on-going operational jobs	Reduced housing availability and affordability
Opportunities for skills training for Aboriginal residents	Potential changes to land use due to locations of wells, flow lines and access tracks
Slight increase in job diversity, if at all	Increased traffic on highways, local and internal property roads
Minor increase in local procurement in the short term	Potential for reduced productivity of land and associated livelihoods
Possible gradual increase in population	Construction impacts on amenity
Compensation payments to land holders for the duration of the project	Change to lifestyle and amenity of neighbouring landholders
Community Gas Benefit Fund grants of no more than \$500 000 per event or activity	Potential competition for skilled labour with other industries in the region creating labour shortfalls and increased labour costs
	Potential social impacts due to the presence of non-resident single male workforce
	Noise, dust and visual impacts of construction on recreational activities at Yarrie Lake
	Minor increase in demand on health and medical services

Adapted from Ziller Alison & Gemma Viney 2020, Social Impacts Review Report: Narrabri Gas Project, prepared for North West Alliance 4 August.

When compiling this table, check to see whether the social benefits list has been enlarged by expressing what is essentially the same proposed benefit, in two slightly different ways. For example a SIA may claim that there will be an increase in social cohesion and, separately, an increase in social networking.

## STEP TWO

### List and assess the effectiveness of proposed mitigations

Mitigations proposed to ameliorate, reduce or remove social harms should be tangible (real), deliverable by the proponent and durably effective – likely to last<sup>14</sup>. The quality of proposed mitigations can be revealed in a table.

**Summary Table 2: Proposed mitigations assessed against criteria**

Issue	Description of mitigating action	Criteria	
		Tangible	Deliverable / Durably effective
Impacts on landholder	Agreed principles of land access	✓	✓
	Payment of reasonable financial costs for legal advice	✓	✓
	Compensation payments	✓	✓
	Farm management plan	Contents unknown	
	Mitigation measures and management strategies outlined in chapters on agriculture, noise and vibration, air quality, landscape and visual impact, traffic and transport	Contents unknown	
	Working with Landholders Fact Sheet	✓	✓
	On-going engagement with landholders	✓	✓
	Training, up-skilling, apprentice and traineeship programs	✓	✓
	Source workers from wider regional area and the State	✓	✓
Impact on community values	Project workforce management plan	Contents unknown	✓
	Proponent's Code of Conduct	✓	✓

<sup>14</sup> Preston B 2019, Decision: Gloucester Resources Ltd v Minister for Planning [2019] NSWLEC 7 para 418

**Summary Table 2: Continued**

Issue	Description of mitigating action	Criteria
Impact on recreational activities	200 metre no-go zone around Yarrie Lake	<p><b>Tangible / Deliverable / Durably effective</b></p> <p>✓      ✓</p>
Impact on social infrastructure	<p>Proponent will engage with service providers and monitor changes in demand for health emergency services</p> <p>Proponent will invest in community infrastructure through the Gas Community Benefits Fund</p>	<p>✓</p> <p>Action &amp; impact unknown</p>
Impact on housing	<p>Monitor change in demand on housing and accommodation arising from the project</p> <p>Implement a flexible approach to accommodation management</p>	<p>✓</p> <p>✓</p> <p>✓</p>
Traffic safety	Traffic management plan	Contents unknown

Adapted from Ziller Alison & Gemma Viney 2020, Social Impacts Review Report: Narrabri Gas Project, prepared for North West Alliance 4 August.

Comparison of tables 1 and 2 can reveal if the SIA author is proposing to mitigate social costs which have not been mentioned elsewhere in the SIA. It will also reveal social costs for which no effective mitigation is proposed. At the end of these two steps, you are likely to have identified the main planks of your review.

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## STEP THREE

### **Review the validity, relevance and reliability of assessment claims in the SIA**

Most SIAs have a chapter in which assessment of likely social costs and benefits is made. There is no substitute for a critical review of the claims made in this part of a SIA. A list of common errors is set out in Part 4 below including: omissions, unsubstantiated claims, various strategies to hide impacts, and bias. Examples of each kind of error or source of bias are provided.

Document your assessment of the claims made in the SIA. One way to do this is to use another table. Identify the main claims on which the SIA author is relying, and note your comments - with the page number for easy reference. Table 3 shows how this could be done – the examples are adapted from various SIAs.

### Summary Table 3: Critique of evidence

Main claims on which SIA relies	Notes:
<b>Examples</b>	
Number of dwellings to be constructed	Substantiated in submitted plans – subject to approval
Project will create 400 jobs	No evidence provided for this number in any part of the EIS
Jobs will benefit the town	Kinds of job not stated nor related to skills of residents
Density of a mobile home park creates social cohesion	Unsubstantiated Inappropriate comparison with owner occupied housing
More bottle shops do not increase alcohol consumption	Unsubstantiated Contrary to available evidence
Boarding houses are better managed than private rental properties	Claim based on presence of a management plan Unclear how the consent authority can ensure it is implemented effectively and over time.
Landholders will get compensation payments which will be a social benefit	Double counting
<b>Omissions</b>	
Public health	SIA only mentions health services and facilities
Distributional equity	Not mentioned
No-go / null scenario	Not provided
Traffic noise impacts on aged care residents	Not mentioned
Social impacts on Aboriginal communities	Only one (of potential 6) Aboriginal organisations consulted and only once
Impact of climate change on the proposed project	Not mentioned
Impact of increased use of online working arrangements	Not mentioned
Impact of predominantly male workforce on women's safety and wellbeing	Not mentioned
Impact of predominantly non-resident workforce on social cohesion	Not mentioned

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It may be relatively easy to point out when claims are unsubstantiated. However, the examples in Table 3 also point to the need for social science expertise on the part of the reviewer. For example, a reviewer should be able to

- locate the document (if any) on which a jobs claim is based (e.g. an economic impact assessment), assess the validity of the claim (or whether it is unsubstantiated) and explain shortcomings;
- explain the difference between residential density and social cohesion, and the fallacy of assuming that the former creates the latter;
- locate the research which counters claims about no increase in alcohol consumption when the number of licensed premises increases;
- point out the difference between a plan and its implementation;
- identify double counting;
- identify critical and likely social impacts which have not been mentioned.

A social scientist assessing SIAs should either already know this information or be able easily to research it.

## DISTRIBUTIONAL EQUITY

The assessment should identify the distribution of social benefits and costs that are likely to arise. It may help to present these in a table. An example in Table 4 below shows the distribution of social costs and benefits between stakeholders. Experience with this summary table has shown that the non-financial cost and non-financial benefit columns *always* have at least one item.

**Summary Table 4: Distributional equity of likely social costs and benefits (hypothetical proposed new late trading hotel)**

Who will experience a social benefit in non-financial terms	Who will experience a social benefit in financial terms	Who will suffer a social detriment in non-financial terms	Who will suffer a social detriment in financial terms
<p>Residents for whom the hotel is a social outlet without intoxication or gambling impacts</p>	<p>The hotel owner Employees who were previously un/under-employed</p>	<p>Residents of the suburb and their families who suffer an alcohol-related harm [e.g. assault, abuse or neglect]</p>	<p>Family members of people with a problem with their drinking and/or gambling who experience financial stress</p>
	<p>Alcohol industry and other suppliers State government via increased gambling tax revenue and other revenues</p>	<p>Residents of the suburb requiring health care or alternative accommodation due to assault or abuse</p>	<p>Any resident who has to pay for health care arising from a person's drinking/gambling at the hotel</p>
	<p>State government via increased gambling tax revenue and other revenues</p>	<p>Employers of local residents whose performance is undermined by problems at home  Anyone involved in a traffic accident arising from a person who has been drinking, driving away from the hotel</p>	<p>Employers whose staff absentee rate increases</p>

## 'NO-GO' SCENARIO

A SIA should also consider likely social consequences of the proposed project not proceeding. The 'no-go' (or null) scenario can also be presented as a table

**Summary Table 5: With and without the proposed project  
(hypothetical example as for Table 4)**

<b>Before (the situation now)</b>	<b>After, with the proposed hotel</b>	<b>After, without the proposed hotel (the no-go scenario)</b>
High rates of alcohol related harm High density of licensed premises Low SEIFA score	Likely increased sale of alcohol Potential for increased competitive price reductions	No increase in alcohol availability No competitive pressure to lower prices
High rate of alcohol attributable hospitalisations High domestic violence rates	Risk of increased domestic violence and hospital admissions	Rate of licensed premises per 100 000 population will fall (due to population increase)

## STEP FOUR

### **Review the remainder of the document**

Because you are now familiar with the main claims and evidence used in the document, you will have a good idea of what is relevant and what is just 'fill' (padding and repetition). This will allow you to identify fill and review remaining sections of the SIA quickly.



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## STEP FIVE

### Write your review report

Now you have a summary of what the SIA says, a summary of proposed mitigations and a list of substantiated issues as well as any inaccuracies, errors or omissions in the SIA. Bring these together in your review report. Structuring your SIA review around the tables you have completed will make your review succinct and easy to read. Your review report could have the following headings:

- 1 Likely social costs and benefits of this project claimed in the SIA
- 2 Adequacy of the assessment in the SIA including:
  - methodological soundness of the analysis
  - omissions
  - likely impacts on public health
  - distributional effects
  - the 'no-go' scenario
- 3 Proposed mitigations and their likely efficacy
- 4 Review summary

Your summary should indicate

  - i. whether in your opinion, the evidence in the SIA is sound and its assessment can be relied on by a decision maker, and
  - ii. whether you consider, on the evidence available (in the SIA, In the literature and in the available data), that the proposed project or development is in the public interest.

Sign and date your review.

## IMPLICATIONS FOR SIA AUTHORS

All SIAs are reviewed.

Some SIA guidelines provide checklists of matters that should be addressed in a SIA. However, most of these focus on the process followed rather than the substance of the assessment reached<sup>15</sup>. A focus on process often means that the content of the SIA is not adequately assessed.

The summary tables recommended here reveal content inadequacies. SIA authors should anticipate that their SIAs are likely to be reviewed and summarised in this way.

<sup>15</sup> See for example Vanclay et al 2015

# PART 4: Common errors in SIA

SIA guidelines present best practice in lists of requirements which ideally could be found in each SIA. However, the reality is that most SIAs are less than perfect. There are (at least) two reasons for this. The first reason is that initial SIAs are usually prepared and paid for by a proponent. Proponents do not submit SIAs which say that their project will cause social harm and should not go ahead. Even SIAs which are mildly critical of aspects of a proposal can be shelved or re-written by the proponent.

The second reason is that social impact assessment is a broad brief. To deal with this, SIA guidelines often say that the SIA author should focus on the impacts that matter, rather than on all possible impacts. For example, Guidelines and Principles for Social Impact Assessment (Interorganizational Committee 1995, p 35) includes a section titled: Focus the Assessment – Deal With Issues and Public Concerns That Really Count, Not Those That Are Just Easy to Count.

An author's choice of impacts that matter may be influenced by interests. While what matters varies from place to place and proposal to proposal there are some mistakes and errors that occur frequently and usually matter. The following selection is based on extensive experience reviewing SIAs on behalf of consent authorities.

## OMISSIONS

Most SIA guidelines emphasise that distributional equity of impacts across different populations and groups should be analysed. It is also widely recognised that social impact assessment is an exercise in precaution. However, many SIAs prepared to accompany development or licensing applications do not mention these concepts and do not consider these important aspects of a proposal.

This is not just about social justice. Failure to identify distributive inequities results in the omission of critical social impact issues about which precaution should be exercised. Frequently, public health is one of these omissions.

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### **The big omission: public health**

The research documenting the relationship between relative inequality and public health is in the epidemiological literature, including in very accessible summaries for the lay reader (Marmot et al. 2020; AIHW 2016, Wilkinson and Pickett 2012 and the many publications of The Equality Trust, UK). This research has demonstrated the link in developed economies between relative (distributional) inequality and life expectancy, cardio-vascular disease, mental illness, addiction and violence, social mobility, mutual trust, literacy, teenage pregnancy and child wellbeing, among other social indicators.

It is also known that spatial segregation worsens the adverse impacts of relative inequality (Lynch, Kaplan et al. 1998). Other social statisticians (for example at the NSW Bureau of Crime Statistics and Research [BOCSAR], the Australian Bureau of Statistics [ABS], and the Public Health Information Development Unit [PHIDU]) have mapped some of these variables so that the link between relative inequality and spatial distributions can now be examined in the Australian context relatively easily.

Failure to consider the potential contribution of a proposal to the broad pattern of inequality in society amounts to a failure to take public health impacts into account. This omission can take different forms.

**Example:** A proposal is submitted to demolish a public housing estate in an inner urban area of Sydney, replacing it with a significantly greater number of new dwellings among which will be the same, or almost the same, number of public housing dwellings. The proponents claim this as “increased housing diversity”. However, the static provision of replacement public housing (same number, much lower proportion) does not respond to the demand for public housing in inner Sydney and will add to spatial segregation in Greater Sydney by failing to increase supply in relatively advantaged parts of the Sydney urban area.

Unlike income inequality which is potentially able to be reversed by tax and other policy strategies, spatial segregation embeds inequality in bricks and mortar. The public health consequences of bricks and mortar segregation are evident in maps of numerous social indicators.

**Example:** A coal mine is proposed for a valley close to a regional town. The proximity is significant. The consent authority refuses the application and the refusal is appealed.

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An SIA prepared for the appellant enumerates current medical facilities and services in the town and notes residents' concerns about noise, dust and mental illness. There is some discussion in the SIA as to whether, and in which residential areas, anticipated noise and dust impacts would exceed permitted levels. The SIA suggests this could be a matter for further research, also suggesting that existing primary health services have some spare capacity and people with mental health issues could use services in another town.

This approach to the public health impacts of a proposed coal mine in effect defers impact assessment until after the decision, and if consent is given, until after conditions of consent have been determined. No mitigation is proposed unless and until harm has both commenced and been recorded. The approach treats health as an individual matter. An assessment of impacts on public health would have considered impacts on the physical and mental health of the townspeople arising from noise and dust; damage to livelihoods, quality of life, visual and social amenity; the effects of transforming a town based on agriculture and tourism to a town satellite to one short term (20 year) enterprise with long term cumulative effects. The substantial epidemiological literature should have been applied to these issues.

Large scale impacts, such as public health, extend well beyond the immediate locality, but they also include it. In both examples above, the public health impact applies to both the locally affected and wider residential communities.

### **Other common omissions**

Other more easily recognised omissions include:

- key features in the locality (the escarpment, the river, the sawmill, the public housing estate);
- key social indicators such as housing stress and crime rates;
- automation or digitisation of an industry resulting in dwindling number of jobs (e.g. in mining);
- whether jobs will be full or part time, permanent or casual;
- social impacts of climate change.

When SIA authors consistently adopt a narrow scope and omit significant impacts, these omissions may not be noticed because the scope appears normal, even when the omission is substantial, as in the case of public health or climate change. Reviewers should be alert to this possibility.

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## UNSUBSTANTIATED CLAIMS

Analysis of social impacts should be based on evidence, however unsubstantiated claims in SIAs are common. Here are some examples.

**Claim:** Education is the answer

**Example:** Difficult social problems, such as problem gambling, are best dealt with via education programs.

**Claim:** There will be a trickle-down effect

**Example:** This coal mine will be an economic benefit to the whole town.

An unsubstantiated claim may be easy to spot if it is unusual and no justification is provided, but not if the assumptions on which it is based are in common use, as is the case with these two examples. There is no evidence to support either proposition and in fact available evidence is to the contrary. For example, the trickle down argument avoids critical information about the number of jobs actually created and the destination of profits (Richardson and Denniss 2011). Difficult social problems require appropriate, publicly funded social policies.

**Claim:** Buildings create social cohesion

**Example:** "The City Hub will be a 'community living room' where people of all ages, ability and interests come for relaxation and entertainment, to experience history, local culture and arts, to play and create, to connect and communicate, be informed and educated, to enhance lifestyles and broaden horizons. (Savills, September 2012, p. 8)." (Elton Consulting 2014, p. 4)

Buildings are physical structures. Their management may result in social benefits, however this is not a given.

**Claim:** The social issue of concern is normal or unalterable

**Example:** There is a pre-determined demand for alcohol in any community. Some unsubstantiated claims are accompanied by spurious evidence and require careful review. For example, in support of the notion of a predetermined level of demand for alcohol in any community, a SIA author may refer to a Report on the Apparent Consumption of Alcohol (ABS 2018a). However, this report compares the amount of alcohol available for consumption in any year with the population of Australia aged 15 and over. It does not provide information about consumption patterns of different groups, including those who drink no alcohol at all. In addition apparent consumption rates may decline due to population increase despite the fact that more alcohol is being sold.

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### **Multiple unsubstantiated claims**

Some proponents layer unsubstantiated claim upon unsubstantiated claim.

**Example:** ‘The evidence shows that successful global cities have a strong cultural life and diverse night-time economy and that more diverse options lead to a more connected and resilient community, help create a more inclusive nightlife, and improve safety and reduce crime.’ (City of Sydney 2019 p7)

**Example:** ‘Places which develop in response to an identified local character and agreed desired future character are likely to be more sustainable, contribute to good quality of life and attract investment.’ (DPIE 2019 p7)

The first example contains 8 unsubstantiated claims. The second example has three. Both these examples come from documents published in 2019. They express views with common currency and political support. The claims are presented as if they are universal truths, but each is unsubstantiated and their veracity is contested.

### **SUBSTITUTION**

A widely used claim in SIA is that a proposed project will create jobs. This claim may be interpreted as more jobs for local residents. However, this only occurs where the new jobs require skills available among local residents, and the new jobs are not a substitute for existing jobs lost due to the project.

**Example:** Local jobs lost in agriculture are not offset by those gained from a new mine.

Similarly, a SIA may claim that a proposed use of a premises will result in jobs for local residents. However, almost all uses of the premises will result in jobs.

**Example:** The number of jobs required to operate a bottle shop is similar to the number needed for numerous alternative uses of the same retail premises.

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## MISREPRESENTING LOCALITY

**S4.15 (1) (b)** of the EP&A Act limits consideration of social impacts to the locality

**S48(5)** of the NSW Liquor Act requires ILGA to consider social impacts of granting a licence in “the local or broader community”

**S 36(3)(c)(i) and (d)(i)** of the NSW Gaming Machines Act require ILGA to take account of social impacts of gaming machines on “the local community”

Locality is not defined in the NSW EP&A Act. The LEC notes that determination of locality is a question of fact (Redcape Hotel Group 2016), that is, to be decided in each case having regard to relevant facts.

Locality has been interpreted by ILGA as meaning a suburb, town or local government area (ILGA 2018 p2). In NSW these areas are highly variable in terms of population and geographic size.

Both approaches leave the definition to the discretion of the author of an SIA and thereafter to the various reviewers.

### **Minimisation by exclusion**

Misuse of this discretion can occur where a locality is minimised so as to reduce the residential area of a customer catchment and exclude vulnerable residents from consideration.

**Example:** In a merit appeal heard in the LEC, the appellant was seeking to construct a packaged liquor outlet. The appellant’s SIA expert witness defined the locality relevant to consideration of social impacts as a radius of 800 metres, or at most 1200 metres, from the site. The effect of this definition was to exclude from consideration 88% of the population in the proposed outlet’s primary customer catchment, 58 existing liquor outlets within 2 km of the site, several areas with a high proportion of public housing and Aboriginal residents, and most of the domestic violence hotspots in the urban area in which the site was located (Ziller 2013).

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### Minimisation by dilution

Locality can also be given an overly large definition where an SIA author seeks to use advantaged areas to minimise the presence of relatively disadvantaged areas close to the proposed development. This is done by selecting a social indicator which appears more favourable when the larger scale is used.

The ABS prepares social and economic indexes for areas (SEIFAs) from Census data every five years. There is a SEIFA Index of Relative Disadvantage (IRSD) and a SEIFA Index of Relative Advantage and Disadvantage (IRSAD). The SEIFA IRSAD masks the presence of disadvantage when used for a large area in which there are both advantaged and disadvantaged residential areas (ABS 2018b p 7).

**Example:** A development application for a new hotel, with a gaming room, sports bar and betting opportunities, in a middle ring suburb of Sydney cites the relatively good SEIFA IRSAD score for the suburb as a whole, some 18,000 residents (using scores for SA2s), saying that this indicates that residents of the suburb are relatively advantaged. However a map of SEIFA IRSD scores for SA1s (statistical small areas) in this suburb, obtainable from the Council's social atlas, shows that that several SA1s within walking distance of the proposed site are in the most disadvantaged quintiles of the IRSD Index. This social profile should alert the reviewing assessor to the social gradient of gaming-related harm.

Other indicators such as median income, unemployment rates, life expectancy, crime rates can be used in a similar way to conceal local, but intense, social disadvantage. For example, a modest crime rate for a suburb or local government area as a whole may conceal a substantial hotspot in one area. Many of these indicators are now available in mapped form (on a council's social atlas or BOCSAR crime maps) which makes these misuses easier to spot.

### Example:

Area	Non-domestic assault, year ended September 2020. Rate per 100 000 population
Newcastle LGA	650.2
Newcastle suburb	2420.1

Source: BOCSAR, accessed March 2021



## NUMBERS AND RATES

SIA guidelines usually call for demographic data and other indicators. Standard practice presents this data by reporting rates rather than numbers, for example, crime rates per 100 000 population, number of gaming machines per 100 000 adults. Rates standardise the information and facilitate comparison.

However, some SIA authors use raw numbers in order to assert that incidence is low or improving. It is important to test this claim by examining the data as a rate.

**Example:** In the suburb of Newcastle, NSW, non-domestic assault fell from 126 in the year to September 2016 to 75 incidents in the year to September 2020. However this was a fall from 4320.9 to 2420.1 per 100 000 population. The rate for NSW as a whole fell from 410.7 to 372.5 per 100 000.

Crime statistics represent matters reported to the police. Reported rates vary with the type of crime. In NSW recording an offence as alcohol-related is a matter for officer discretion,<sup>16</sup> making this data unreliable<sup>17</sup> and likely to significantly under-report the actual rate.

**Example:**

Suburb	Non-domestic assault, year ended September 2020. Rate per 100 000 population	Alcohol-related non-domestic assault, year ended September 2020. Rate per 100 000 population
Liverpool suburb	897.3	131.5
Newcastle suburb	2420.1	968.1

**Source:** BOCSAR, accessed March 2021

<sup>16</sup> BOCSAR Glossary for the NSW Crime Tool: Alcohol related: Shows offences which the NSW Police Force choose to flag as 'alcohol related', [https://www.bocsar.nsw.gov.au/Pages/bocsar\\_crime\\_stats/bocsar\\_glossary.aspx](https://www.bocsar.nsw.gov.au/Pages/bocsar_crime_stats/bocsar_glossary.aspx)

<sup>17</sup> Weatherburn D 2011, Uses and abuses of crime statistics, Crime and Justice Bulletin, Contemporary Issues in Crime and Justice, No 153, November. NSW Bureau of Crime Statistics and Research; Fitzgerald J, 2019, Report on proceedings before the Joint Select Committee on Sydney's Night time economy, 9 August 2019, p 75 <https://www.parliament.nsw.gov.au/ladocs/transcripts/2200/Joint%20Select%20Committee%20on%20Sydney%20s%20night%20time%20economy%20-%20corrected%20transcript%20-%209%20August%202019.pdf>

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## MISLEADING COMPARATORS

Reliance on prediction rather than retrospective measurement means SIA authors often make use of comparative situations in order to describe likely outcomes. Comparisons may be made with similar places or events, timescales and data. This opens opportunities for bias in the selection of comparators.

### **Like with unlike!**

A comparator should meet the like-with-like test, that is the comparator should be similar in important aspects to the item to which it is compared.

**Example:** A SIA for a proposed mobile home park compares the proposed price of a mobile home with recent sales prices of detached houses in the same suburb. In this case the detached homes include title to the land on which they are built and are larger and less densely spaced than the mobile homes which are proposed to be placed on smaller, closely spaced, leased lots. The differences are substantial making the detached homes a poor comparator for the proposed mobile homes.

### **Prospective and retrospective surveys**

A SIA author may also administer a survey to obtain comparative data. Survey results are easily manipulated by the mode and method of data collection, the sequence and wording of the questions and the timing of the survey. A survey which asks people to speculate about the effects of a proposed change or development is not recording people's actual experience of the proposed change or development. Even if a survey is undertaken for comparative purposes in a place where a similar change has already taken place, there must be a reasonable chance that respondents could know about the impacts the survey is asking about.

**Example:** In 2011, a SIA author used a telephone survey of residents in Ballina NSW, where a packaged liquor outlet had opened a year before, to provide a comparison with a proposed similar packaged liquor outlet in Nowra NSW. There were a number of issues with this survey, however, chief of these was the fact that police statistics for the previous 12 months were not available at the time of the survey so that neither the police nor residents could reliably know whether there had been any impact in terms of alcohol-related crimes. In addition, the first 12 months of trade is the start-up period not the established trading profile, and the crimes associated with packaged liquor outlets, particularly domestic assault, are known to be under-reported and largely hidden from public view. These factors undermined the usefulness of the survey as a valid comparator, as the Commissioner noted in her decision (Martin Morris & Jones Pty Ltd 2012 para 59).

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## SELECTIVE REFERENCING

A SIA is not the vehicle for a systematic literature review and it is rare that such a review is available to a SIA author. As a result it is inevitable that a SIA author selects research findings from the literature to support their assessment. A reviewing assessor should be alert to indicators of bias, such as an author's reliance on one report which is substantially out of date and/or provides results for a small sample. A knowledge of specialist literature, e.g. on housing, alcohol-related harm, is needed to review some SIAs.

## CONSULTATION AND THE RIGHT OF REPLY

Consultation is an important impact assessment safeguard and often ensures that issues of public interest are raised. The safeguard provided by consultation should give effect to the principle of natural justice by ensuring that people likely to be affected by a proposal have a right to be heard (the hearing rule), to provide evidence about likely impacts (the evidence rule), have opportunities to challenge bias (the rule against bias) and can question whether an impact is proportionate for the circumstance (USQ 2019).

*Acme Developments  
welcomes all forms of  
criticism, no matter how  
robust - as long as you  
keep it positive.*



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These elements of natural justice should be observed by the SIA author, project proponent and consent authority or decision maker. However, consultation processes are inherently limited as well as susceptible to manipulation and misinterpretation, for example, via the information provided to residents and stakeholders, and the manner in which an opportunity to provide feedback is offered. Some key points include:

- No consultation process obtains the views of future generations.
- Consultation is not a census and feedback should not be treated as a vote.
- The most telling social impact feedback may come from a small number of respondents.
- Lack of feedback is not a guide to whether or not there are likely to be social impacts that matter.
- A lack of submissions from a public agency may be due to the whims or interests of the officer in charge, political pressure, pressure of other work, or shortage of staff able to write a response in the time available.
- Lack of resident response to a consultation opportunity may similarly be due to lack of awareness of the proposal, personal pressures, consultation fatigue and/or perceptions of futility (“my opinion won’t make any difference”).

Because of these factors, a SIA reviewer should avoid interpreting non-response as support for the proposal. This is particularly important when stakeholder submissions are not posted online by the consent authority prior to the decision (or ever).

**Example:** A council considering a contentious DA for a hotel did not post objections on their DA tracking system. Local police subsequently explained that they had not objected to the DA because they believed the community had no objection to it. At the time the council had received 2,500 objections.

**Example:** ILGA does not post submissions about liquor licence and gaming machine applications on the NSW Liquor and Gaming Noticeboard. As a result most people cannot exercise a right of reply to statements made in submissions to ILGA. Applicants are provided with a right of reply to all submissions.

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Reviewers should take account of the applicant's interests when reading summaries of feedback prepared by the applicant or the applicant's SIA author. Where possible the original submissions should be reviewed. Some SIA authors, and some reviewing assessors, confuse consultation feedback with social research. Consultation is not a substitute for a review of the available relevant research literature. Both are needed.

## COMMUNITY ENGAGEMENT

Whereas consultation in SIA is a feedback mechanism intended to safeguard natural justice, community engagement is frequently a public relations activity characterised by an on-going relationship between a proponent and a local community or stakeholder group featuring claims of partnership, dialogue, mutuality, collaboration, and on-going contributions to decision making (Sustaining Community 2017).

Whereas invitations to comment and provide feedback can be made by several parties to a proposal (proponent, opponent, reviewer, decision maker) in the interest of natural justice, community engagement is usually undertaken by proponents seeking to persuade a group of people of the benefits of their proposal. In these cases, engagement is not another word for consultation and several of its common component elements (community events, sponsorships, donations) are inconsistent with impartial availability of a right of reply.

Where a SIA author claims to have undertaken community engagement, a SIA reviewer should check whether local residents or stakeholders have been provided with an unfettered right of reply and their responses faithfully recorded.

A list of engagement activities, is no substitute for a list of the issues raised by stakeholders.

**Example:** A community engagement process involving more than 20 engagement activities and 9700 participants is reported to have given rise to 5 'key themes'. The list of engagement activities looks comprehensive but it seems unlikely that 9700 people participated in the reduction of their concerns to the 5 themes published, raising a question as to which inconvenient issues or objections to proposals were omitted.

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## BEFORE AND AFTER / WITH AND WITHOUT

In any assessment of a proposal there will always be the question of what is there now and what will happen after the decision. This is the 'before and after' question. However, after the decision, the situation may change because the application or appeal was successful, or because it was not successful, or there may be some changes which will occur anyway whatever the decision. A SIA author may attempt to obscure these possibilities by misrepresenting the 'before' situation or the 'after' situation or both.

**Example:** In an appeal to the LEC against a refusal of a non-resident mine worker's hostel, the SIA author stated that the 'before' situation included a future upturn in the mining cycle in Australia, i.e. an expansion in coal mining activity. On this basis he asserted that the 'after' situation would mean more non-resident mine workers would need to be accommodated in the area for the duration of their rosters, and a hostel would meet this increase in demand.

This presented an uncertain 'after' possibility as if it had already happened. In fact there were four 'after' possibilities to be considered.

### 'Before' and with and without 'after' scenarios

Before	After scenarios
Current population	1 After with a mining upturn and with the hostel
Current mining cycle	2 After with a mining upturn and without the hostel
Current number of mines	3 After without a mining upturn and with the hostel
Current non-resident workforce	4 After without a mining upturn and without the hostel

Another common mistake is a claim that a proposed project will not make any difference to a social situation (i.e. the 'with' outcome will not change the 'after' scenario).

**Example:** An applicant says, if this application for more gaming machines is successful, the number of gaming machines in the suburb will increase, but the population will also increase and so the rate (number of gaming machines per 100 000 adults) will stay the same and this means there would be no social detriment.

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The SIA should also have said that if the application is unsuccessful, the rate would decline due to population increase (same number of gaming machines, more adults) which would be a social benefit. Loss of this benefit would be a detriment.

*We've just sent bulldozers in to raze the whole site. How does that change your view of before and after?*



## DOUBLE COUNTING

Many economic assessment guidelines warn against double counting in cost benefit analysis. For example the Department of the Prime Minister and Cabinet (DPMC) warns

### Double counting benefits

If the costs and benefits of a regulatory change have been estimated from the impact in a primary market, do not count them a second time as a result of consequent changes in secondary markets. For example, if a change to transport regulation results in savings in travel time to a particular group of homeowners, it would be inappropriate to add the resulting increase in their house prices (which is merely the capitalised equivalent of the benefits counted earlier) to the benefits from the regulatory change. (DPMC 2016 p 13)

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Most SIA guidelines do not include this warning although as the DPMC example shows, it readily applies. Double counting is no more acceptable in social impact assessment than in cost benefit analysis.

**Example:** An SIA in support of a gaming machine application says the additional gaming machines will result in some increase in problem gambling, but this will be offset or neutralised by the establishment of a counselling service on the premises. The applicant proposes to donate \$50,000 a year for the next 5 years towards the running of this service.

The applicant summarises the net position as:

**Costs:** Increase in problem gambling offset by establishment of counselling service = no net cost

**Benefits:** \$50,000 donation p.a. for the next 5 years towards the running of the counselling service

The applicant concludes there will be a net benefit of \$50,000 per annum for five years.

In this example the donation is counted twice. The SIA should have said that there would be the social cost of an increase in problem gambling and the financial cost of providing a counselling service for 5 years at \$50,000 a year. The net social cost would be any increase in problem gambling despite the presence of a counselling service for 5 years.

**Example:** A SIA proposes that monetary compensation to landholders will offset potential agricultural productivity losses from resource extraction activity and this compensatory additional income stream is a net benefit for landholders, that is:

**Cost to landholders:** lost agricultural productivity offset by compensation payments

**Benefits to landholders:** compensation payments during the extraction period.

The SIA should have said that loss of income due to impacts on agricultural productivity would be offset in the short term by compensation payments. A net social cost would arise to the extent that these payments did not fully compensate social costs experienced by landholders during and after resource extraction.



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## MITIGATIONS

The precautionary role of SIA creates the opportunity to recommend mitigations to remove or reduce adverse impacts, or achieve greater social benefit. To be taken seriously, a proposed mitigation should be tangible, deliverable (by the proponent) and durably effective (Preston 2019 para 418). Mitigations proposed in SIAs frequently fail this test in the following ways:

### **The mitigation would be delivered by a third party**

Under the heading of mitigations SIA authors often present ideas about what another agency or entity might do that would be helpful, even though the other agency or entity is not a party to the application and would be under no obligation to do anything.

**Example:** A SIA accompanying an application to construct a student hostel in an outer suburb, proposes that a private bus company provides a new bus route that would take students to and from the tertiary institution. The developer is not the bus company.

### **The mitigation is a plan of management**

A common strategy is to describe proposed plans of management as mitigations. However, the content of such plans is often unknown, the content cannot be made a condition of consent and thereby enforced, and there is no guarantee of implementation. The life of a plan is usually much shorter than the life of the project.

**Example:** Mitigations proposed for a gas extraction project include a Community Investment Strategy, a Local Content Plan, a Recruitment and Training Strategy, an Accommodation and Labour Force Strategy and an Indigenous Participation Plan. These plans of management had yet to be written.

### **The mitigation relies on an unsubstantiated claim**

Many mitigations fall into the category of unsubstantiated claims because there is no nexus between the proposed mitigation and the alleged outcome, or any nexus is unsubstantiated.

**Example:** Enhance community cohesion through (proponent) sponsored community events.

**Example:** Address visual amenity issues (e.g. spoil or slag heap, loss of original landscape) through town beautification projects.



Say yes to this project and we promise to hold regular prayer meetings for world peace.

### **The mitigation is a vague assurance**

Some mitigations lack the detail needed to meet the criterion of tangibility.

**Example:** Provide training opportunities for Aboriginal residents.

**Example:** Support tourism initiatives.

### **The mitigation is unlikely to have a tangible impact**

Some mitigations are easily achievable for the proponent but unlikely to have tangible impacts.

**Example:** Advocate for construction of affordable housing.

**Example:** Attend meetings of the consultative committee.

### **The mitigation is already required by law or government policy**

Another common approach is to present compliance with a legal or policy requirement as a mitigation. Compliance is a requirement to be considered in the assessment of social costs not as an option to mitigate them.

**Example:** Mitigation - The licensed venue will implement responsible service of alcohol procedures.

**Example:** Mitigation - The mining company will establish a Project Community Consultative Committee (which is required by DPIE).

### **The mitigation lacks credibility**

Some proposed mitigations are simply fanciful.

**Example:** The applicant will plant a hedge so that young people visiting a nearby skateboard rink won't know the bottle shop is there.

**Example:** The applicant will not sell 4 litre cask wine (but will sell 2 litre casks).

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Many SIAs are replete with assurances – but with little to no basis provided – that the risks of social harm will be low, or residual or able to be mitigated. Frequently proponent SIAs present this point of view as each potential risk is discussed, and provide a summary table at the end of the document which appears to show the project would create almost no real social risks of any sort. This approach, along with some errors from among those described above, fundamentally undermines a SIA.

The key considerations for a reviewer are whether the proposed mitigations are within the capacity and scope of responsibilities of the proponent to deliver, are likely to deliver an effective amelioration of social harm, can be enforced as a condition of consent, and are likely to last. A proposed mitigation which meets these requirements is rare. A reviewer should consider whether the only mitigation for some social costs would be not to proceed.

For an analysis of SIA submissions using many of these criteria see Stafford, Kyri and Pettigrew 2020.

## THE ETHICS OF GOOD PRACTICE

Authors of proponent SIAs face a number of ethical challenges and so do reviewers and consent authorities.

A fundamental difficulty facing the author of a SIA paid for by a project proponent is credibility. The difficulty arises because SIAs submitted by proponents almost always support the proponent project, even if with some reservations (the fence-sitting SIA), but not all projects are socially beneficial and some create significant social harm.

Good practice means that SIA authors should ensure that they have a valid evidentiary basis for their predictions of likely impacts and ensure their assessments and recommendations are consistent with the principles of precaution and distributional equity. However, these authors appear often to face an ethical choice between their income and assessment accuracy. How they resolve this dilemma is usually manifested in the SIA itself.

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SIA reviewers and decision makers face similar ethical dilemmas in the review and decision making context. They should consider

- whether they hold unexamined beliefs about social impacts, for example,
  - i. economic impacts are the only ones that matter,
  - ii. provide the buildings and social benefits will automatically occur<sup>18</sup>,
  - iii. social impacts are intangible, perceptual or ephemeral (viz. not real),
  - iv. social impacts aren't really the responsibility of planners.
- whether they have confused the public interest with business interests, or middle class interests, or political interests, or all of these;
- whether they stand to gain personally from approving an SIA and thereby the project – including where the gain is more work, a promotion, or relief from pressure, bullying or other threats.

How SIA reviewers and decision makers address and resolve these issues is also usually manifested in their reports and decisions. This includes resolution by avoidance or omission (the decision appears to come out of nowhere / is not related to the evidence presented).

To the extent that SIAs are public documents, resolution of ethical challenges is evident because they are in the public domain.

<sup>18</sup> This is known as physical determinism. A building is just a structure, its social impact will depend on where it is, who has access to it, whether it is safe and well maintained, and how its uses are managed.

# PART 5: Background information & resources

## DEFINITIONS

### **Social impacts**

Social impacts are the consequences of actions on people and on society. Social impacts can be positive or negative.

### **Social impact assessment**

The identification and appraisal of likely social impacts, whether intended or unintended, short or long term, of a proposed event such as a project, a development or a policy.

### **Society**

‘A large group of people who live together in an organized way, making decisions about how to do things and sharing the work that needs to be done. All the people in a country, or in several similar countries, can be referred to as a society.’<sup>19</sup>

**Similar terms:** the public, the general public, everyone

### **Community**

A community is a group of people with something in common, usually territory, interests or attachments.<sup>20</sup> Communities are numerous and exist within, across and between societies.

Community is often employed as a ‘warmly persuasive word’ which ‘never seems to be used unfavourably.’<sup>21</sup>

### **Public health**

‘Public Health is defined as “the art and science of preventing disease, prolonging life and promoting health through the organized efforts of society”... Public health focuses on the entire spectrum of health and wellbeing, not only the eradication of particular diseases.’<sup>22</sup>

<sup>19</sup> Cambridge Dictionary, <https://dictionary.cambridge.org/dictionary/english/society>

<sup>20</sup> Willmott, Peter, 1989, Community Initiatives: patterns and prospects, London: Policy Studies Institute

<sup>21</sup> Williams, Raymond 1976, Keywords, Fontana/Croom Helm, London.

<sup>22</sup> World Health Organisation, Regional Office for Europe, <https://www.euro.who.int/en/health-topics/Health-systems/public-health-services>

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## Social determinants of health

'The social determinants of health are the conditions in which people are born, grow, live, work and age. These circumstances are shaped by the distribution of money, power and resources at global, national and local levels. The social determinants of health are mostly responsible for health inequities - the unfair and avoidable differences in health status seen within and between countries.'<sup>23</sup>

The social determinants of health affect both individuals and whole populations. Indicators of population health include life expectancy, hospitalisation rates, crime rates and the social gradients of income and wealth. The determinants of these rates are often structural (e.g. wage structures) and distributional (e.g. distribution of services and facilities).

## Other 'social' terms

'**Social facts** are social patterns that are external to individuals. Things such as customs and social values exist outside individuals, whereas psychological drives and motivation exist inside individuals. Social facts, therefore, are not to be explained by biology or psychology, but instead by society.'<sup>24</sup>

**Social sustainability** refers to stability and maintenance of public health. A broad concept, it has also been defined as '[T]he impact of formal and informal systems, structures, processes and relationships on the current and future liveability and health of communities.'<sup>25</sup>

'**The social gradient** in health is a term used to describe the phenomenon whereby people who are less advantaged in terms of socioeconomic position have worse health (and shorter lives) than those who are more advantaged. A classic example of research on this subject is the Whitehall study of British civil servants. Analysis of these data shows a steep inverse association between social class and health and mortality from a wide range of diseases.'<sup>26</sup> The social gradient is an important concept in social impact assessment.

<sup>23</sup> WHO, About social determinants of health: [https://www.who.int/social\\_determinants/sdh\\_definition/en/](https://www.who.int/social_determinants/sdh_definition/en/)

<sup>24</sup> [http://sociology.about.com/od/S\\_Index/g/Social-Fact.htm](http://sociology.about.com/od/S_Index/g/Social-Fact.htm)

<sup>25</sup> Barron L and E Gauntlett 2002, WACOSS Housing and Sustainable Communities Indicators Project, the regional institute, [http://www.regional.org.au/au/soc/2002/4/barron\\_gauntlett.htm](http://www.regional.org.au/au/soc/2002/4/barron_gauntlett.htm)

<sup>26</sup> Institute of Health Equity 2014, Social Gradient: <http://www.instituteofhealthequity.org/in-the-news/articles-by-the-institute-team-/social-gradient>

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**‘Social infrastructure** includes physical facilities and spaces where the community can access social services. These include health-related services, education and training, social housing programs, police, courts and other justice and public safety provisions, as well as arts, culture and recreational facilities.’<sup>27</sup>

**Social segregation:** ‘the separation or isolation of a race, class, or ethnic group by enforced or voluntary residence in a restricted area, by barriers to social intercourse, by separate educational facilities, or by other discriminatory means.’<sup>28</sup> In Australia, social segregation is particularly used to refer to geographic segregation of rich and poor.

### **Cumulative impact**

‘Cumulative impacts are the successive, incremental and combined impacts (both positive and negative) of an activity on society, the economy and the environment.’<sup>29</sup>

‘Cumulative impact refers to both positive and negative impacts that can result from clustering a particular land use or type of land use. Potential cumulative impact from a cluster of licensed premises will vary between locations, depending on the mix and number of venues and whether the area is a destination for activities associated with the supply of alcohol. Cumulative impact is a product of the number and type of venues present, the way they are managed, and the capacity of the local area to accommodate those venues.’<sup>30</sup>

### **The public interest**

‘The welfare or well-being of the general public’.<sup>31</sup>

### **The common good**

‘If you do something for the common good, you do it for the benefit or advantage of everyone’.<sup>32</sup>

<sup>27</sup> Department of State Development, Infrastructure, Local Government and Planning 2019, Social Infrastructure, Queensland Government: <https://www.dsdmip.qld.gov.au/industry/infrastructure/infrastructure-planning-and-policy/social-infrastructure>

<sup>28</sup> Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/segregation>

<sup>29</sup> SIA Hub: Cumulative impacts: A good practice guide for the Australian Coal Industry: <https://www.socialimpactassessment.com/documents/Cumulative%20impacts%20CSR%20guide.pdf>

<sup>30</sup> Department of Environment, Land, Water and Planning 2015, Licensed premises: Assessing cumulative impact 2015, Victorian Planning Practice Note 61, Victorian Government, June: [https://www.planning.vic.gov.au/\\_data/assets/pdf\\_file/0026/97325/PPN61-Licensed-premises\\_Assessing-cumulative-impact\\_June-2015.pdf](https://www.planning.vic.gov.au/_data/assets/pdf_file/0026/97325/PPN61-Licensed-premises_Assessing-cumulative-impact_June-2015.pdf)

<sup>31</sup> <https://www.dictionary.com/browse/public-interest>

<sup>32</sup> <https://www.collinsdictionary.com/dictionary/english/the-common-good>

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## **Commercial determinants of health**

'Strategies and approaches used by the private sector to promote products and choices that are detrimental to health... Corporate influence is exerted through four channels: marketing, which enhances the desirability and acceptability of unhealthy commodities; lobbying, which can impede policy barriers such as plain packaging and minimum drinking ages; corporate social responsibility strategies, which can deflect attention and whitewash tarnished reputations; and extensive supply chains, which amplify company influence around the globe. These channels boost corporate reach and magnify the health impact of commercial enterprise. The breadth and depth of corporate influence is expanded as more people are reached with ever more consumption choices.'<sup>33</sup>

## **Regulatory capture**

'Regulatory capture is a form of government failure where those bodies regulating industries become sympathetic to the businesses they are supposed to be regulating. Regulatory capture can mean monopolies can continue to charge high prices. The opposite of regulatory capture is 'public interest theory' – the idea that government regulation can influence monopolies to behave in the public interest.'<sup>34</sup>

<sup>33</sup> Klockbusch I, L Allen and C Franz 2016, The commercial determinants of health, *The Lancet Global Health*, December, volume 4 issue 12 [https://doi.org/10.1016/S2214-109X\(16\)30217-0](https://doi.org/10.1016/S2214-109X(16)30217-0)

<sup>34</sup> T Pettinger 2018, Regulatory Capture, *Economics Help* 24 May: <https://www.economicshelp.org/blog/141040/economics/regulatory-capture/>



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## PLANNING PRINCIPLES FOR SIA

A 2017 Decision in the NSW Land and Environment Court set out some “principles that may assist in determining the relevant considerations for likely social impacts of a proposed development for a liquor outlet within a locality”. In brief these principles stated:

- “‘likely’ impacts means ‘a real chance or possibility’”
- “‘Locality’ is a question of fact; ... and what constitutes the appropriate locality within which to consider the impact is for the consent authority to determine”,
- Weight must be given to the zoning .., although the fact that a particular use is permissible may be a neutral factor
- The following are relevant considerations:
  - i.** “The socio-economic demography of the locality”
  - ii.** “The prevalence of alcohol related crime in the locality”
  - iii.** Academic literature and surveys although their use should be “proportional to the concern raised”
  - iv.** “The relationship between the type of liquor outlet and the socio-economic demography of the locality”
  - v.** “The relationship between the price of liquor and demand”
  - vi.** “The density of liquor outlets in the vicinity of the site”
  - vii.** “Whether existing uses in the immediate context of the proposal result in the proposal being inappropriate”
  - viii.** Whether adequate mitigations of likely social impacts are available.<sup>35</sup>

These principles were subsequently applied in another decision by the Court.<sup>36</sup>

<sup>35</sup> Recape Hotel Group Pty Ltd v Council of the City of Ryde [2016] NSWLEC 1497 <https://www.caselaw.nsw.gov.au/decision/5812cbece4b0e71e17f54f21>

<sup>36</sup> Suh v Liverpool City Council and Casula Community Group for Responsible Planning Inc No 2 [2016] NSWLEC 1596: <https://www.caselaw.nsw.gov.au/decision/57357d5de4b0e71e17f517e8>

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## POLICY AND LEGISLATIVE EXTRACTS

### **Planning Institute of Australia SIA policy: extract**

Impact assessment is an important part of planning and decision making processes.

Proposals for change which require an environmental or economic impact assessment also require a social impact assessment

Social impact assessment of policies or plans should be sufficiently robust to anticipate the impact of proposals made under the plan and minimise the need for further assessment.

Without limiting the matters in regard to which a social impact assessment may be appropriately required, proposals for:

- i. larger developments, including: major retail, sports or social infrastructure proposals,
- ii. a significant change of land use, including: new highways, loss of agricultural land,
- iii. sale or rezoning of publicly owned land,
- iv. new planning policies and plans amendments to them, and/or,
- v. controversial uses or increases in intensity (e.g. brothels or gun shops, or of gaming or liquor outlets), should be fully assessed for their social impacts in a SIA.

Social impact assessment should be undertaken by appropriately trained and qualified personnel using rigorous social science methodologies and with a high degree of public involvement.

A social impact assessment should be a public document.<sup>37</sup>

<sup>37</sup> PIA Policy, Social Impact Assessment: <https://www.planning.org.au/policy/social-impact-assessment-1010>

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# NSW ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979<sup>38</sup>

## 1.3 Objects of Act

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (c) to promote the orderly and economic use and development of land,
- (d) to promote the delivery and maintenance of affordable housing,
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
- (g) to promote good design and amenity of the built environment,
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
- (j) to provide increased opportunity for community participation in environmental planning and assessment.

<sup>38</sup> Source for NSW legislation: <https://www.legislation.nsw.gov.au/#/browse> Emphasis has been added

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#### 4.15 Evaluation

(1) Matters for consideration—general. In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) the provisions of:
  - (i) any environmental planning instrument, and
  - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
  - (iii) any development control plan, and
  - (iii a) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and
  - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) **the public interest.**

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## NSW LOCAL GOVERNMENT ACT 1993

### 8A Guiding principles for councils

**(2) Decision-making** The following principles apply to decision-making by councils (subject to any other applicable law):

- (a) Councils should recognise diverse local community needs and interests.
- (b) Councils should consider social justice principles.
- (c) Councils should consider the long term and cumulative effects of actions on future generations.
- (d) Councils should consider the principles of ecologically sustainable development.
- (e) Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

**3) Community participation** Councils should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

## S48(5) OF THE NSW LIQUOR ACT 2007

### 3 Objects of Act

**(1)** The objects of this Act are as follows:

- (a) to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,
- (b) to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,
- (c) to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.

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(2) In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:

- (a) the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),
- (b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,
- (c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

#### **48 Community Impact**

**48(5)** The Authority must not grant a licence, authorisation or approval to which a relevant application relates unless the Authority is satisfied, after having regard to:

- (a) the community impact statement provided with the application, and
- (b) any other matter the Authority is made aware of during the application process (such as by way of reports or submissions),

**that the overall social impact of the licence, authorisation or approval being granted will not be detrimental** to the well-being of the local or broader community.

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## NSW GAMING MACHINES ACT 2001

### 3 Objects of Act

1 The objects of this Act are as follows:

- (a) to minimise harm associated with the misuse and abuse of gambling activities,
- (b) to foster responsible conduct in relation to gambling,
- (c) to facilitate the balanced development, in the public interest, of the gaming industry,
- (d) to ensure the integrity of the gaming industry,
- (e) to provide for an on-going reduction in the number of gaming machines in the State by means of the tradeable gaming machine entitlement scheme.

(2) The Authority, the Minister, the Secretary, the Commissioner of Police and all other persons having functions under this Act are required to have due regard to the need for gambling harm minimisation and the fostering of responsible conduct in relation to gambling when exercising functions under this Act.

(3) In particular, due regard is to be had to the need for gambling harm minimisation when considering for the purposes of this Act what is or is not in the public interest.

### 36 Approval of LIA by Authority

(1) If an LIA is required to be provided with a threshold increase application, the application cannot be approved unless the Authority approves the LIA.

(2) The applicant is liable to meet any costs incurred by the Authority in connection with its determination of the LIA. The Authority may refuse to determine the LIA until any such costs are paid to the Secretary or provision, satisfactory to the Authority, has been made for their payment.

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**(3)** The Authority may approve an LIA only if it is satisfied that:

- (a)** the LIA complies with the requirements of this Division and the regulations in relation to the LIA, and
- (b)** the LIA has demonstrated that gambling activities in the relevant venue will be conducted in a responsible manner, and
- (c)** in the case of a class 1 LIA:
  - (i)** the proposed increase in the gaming machine threshold for the relevant venue will provide a positive contribution towards the local community where the venue is situated, and
  - (ii)** the relevant venue is not, if the venue is a new hotel or comprises new club premises, situated in the immediate vicinity of a school, hospital or place of public worship, and
  - (iii)** the LIA has adequately addressed any community concerns arising out of the consultation process under the regulations, and
- (d)** in the case of a class 2 LIA:
  - (i)** the proposed increase in the gaming machine threshold for the relevant venue will have an overall positive impact on the local community where the venue is situated, and
  - (ii)** the relevant venue is not, if the venue is a new hotel or comprises new club premises, situated in the immediate vicinity of a school, hospital or place of public worship, and
  - (iii)** the LIA has adequately addressed any community concerns arising out of the consultation process under the regulations, and
- (e)** it is otherwise appropriate that the LIA be approved.

## **NSW GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009**

### **5 Presumption in favour of disclosure of government information**

There is a presumption in favour of the disclosure of government information unless there is an overriding public interest against disclosure.

#### **12 Public interest considerations in favour of disclosure**

**(1)** There is a general public interest in favour of the disclosure of government information...



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### **13 Public interest test**

There is an **overriding public interest against disclosure** of government information for the purposes of this Act if (and only if) there are public interest considerations against disclosure and, on balance, those considerations outweigh the public interest considerations in favour of disclosure.

**Source:** <https://www.legislation.nsw.gov.au/#/browse> Emphasis added (except GIPA Act)

## **RECENT DECISIONS**

Social impact considerations were key in these four recent NSW LEC decisions.

### **Mining**

Gloucester Resources Limited v Minister for Planning [2019] NSWLEC7  
<https://www.caselaw.nsw.gov.au/decision/5c59012ce4b02a5a800be47f>

Bulga Milbrodale Progress Association Inc v Minister for Planning and Infrastructure and Warkworth Mining Limited [2013] NSWLEC 48  
<https://www.caselaw.nsw.gov.au/decision/54a639943004de94513da836>

### **Liquor licensing**

Mina Suh v Liverpool City Council and Casula Community Group for Responsible Planning Inc [2016] NSWLEC 1177  
<https://www.caselaw.nsw.gov.au/decision/57357d5de4b0e71e17f517e8>

Cardno Pty Ltd v Campbelltown City Council [2013] NSWLEC 1056  
<https://www.caselaw.nsw.gov.au/decision/54a639923004de94513da7fa>

You can search for decisions on the caselaw site:

<https://www.caselaw.nsw.gov.au>

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## MEASURING RELATIVE INEQUALITY

### Common measures of relative inequality

- 1 Proportion of a society's total income received by the poorest half of the population (frequently the poorest half get about 20% of the total)
- 2 How many times richer the richest 20 percent are than the poorest 20 percent
- 3 Proportion of a society's income that would have to be redistributed from the rich to the poor to make everyone's incomes the same (Robin Hood Index)
- 4 Gini coefficient measures the extent of inequality across the whole population and varies between 0 (perfect equality where everyone gets the same amount) and 1 perfect inequality where all income goes to one person). Values for many societies vary around 0.3 or 0.4.<sup>39</sup>

All measures tend to show similar results so choice of method is not critical. These measures are used in public health literature about relative equality.

## USEFUL OPEN ACCESS DATA SOURCES

Links correct at time of going to press.

**BOCSAR** crime maps and associated data: <http://crimetool.bocsar.nsw.gov.au/bocsar/>

**Health statistics NSW** <http://www.healthstats.nsw.gov.au>

**Australian Census** e.g. via

- PHIDU: <http://phidu.torrens.edu.au/social-health-atlases>
- ABS Quick stats:  
<https://www.abs.gov.au/websitedbs/censushome.nsf/home/quickstats?opendocument&navpos=220>
- ABS community profiles: <https://www.abs.gov.au/websitedbs/censushome.nsf/home/communityprofiles?opendocument&navpos=230>
- profile.id: <https://profile.id.com.au>

**SEIFA indexes 2016:** <https://www.abs.gov.au/ausstats/abs@.nsf/mf/2033.0.55.001>

<sup>39</sup> Adapted from Wilkinson R G 2005, The Impact of Inequality, How to make sick societies healthier, The New Press, New York, p 102.

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**Other social data**, e.g. some health and benefits data, see PHIDU

**Research reports** on a wide range of social issues: Browse Analysis & Policy Observatory [APO] <https://apo.org.au>

**Liquor licence premises lists.** Published each month by Liquor & Gaming NSW <https://www.liquorandgaming.nsw.gov.au/resources/liquor-licence-dat>

**Liquor & Gaming LiveData** provides data on liquor licence premises with some health and crime data for suburbs or LGAs. The data sets include liquor outlet saturation, outlet clustering and outlet diversification. However there are some limitations to the data provided from other agencies, for example some crime data is only reported as alcohol-related, and crime and health statistics are only provided for the two most recent years.

<https://livedata.liquorandgaming.nsw.gov.au>

**Gaming machine data by LGA and for the State:** A range of information is available, some free and some for a fee, including de-identified net profit data for an LGA, number of gaming machines in an LGA and state rankings of these data. <https://www.liquorandgaming.nsw.gov.au/resources/gaming-machine-data>

The Local Impact Assessment (LIA) scheme classifies all areas within NSW based on the risk of introducing additional gaming machines into that area. The location of a venue is classified in a risk ranking system defined by a geographical boundary called SA2, established by the ABS. This method determines the type of LIA required.

**Find my LIA Band** – shows where hotels and clubs are located:

<https://trade.maps.arcgis.com/apps/webappviewer/index.html?id=83b2df269774468eab7d44cf51b3a7d3>

Liquor and Gaming NSW data email inquiries: [data.info@liquorandgaming.nsw.gov.au](mailto:data.info@liquorandgaming.nsw.gov.au)

**The Equality Trust** for current research on impacts of inequality on public health: <https://www.equalitytrust.org.uk/about-inequality/impacts>

Links correct at time of going to press.

## BLANK TABLES

### 1 Summary of the SIA's claims

**Summary Table 1: Social costs and benefits identified in the SIA**

Social benefits identified in the SIA	page #	Social costs identified in the SIA	page #
1		1	
2		2	
3		3	
4		4	
5		5	
6 and so on		6 and so on	

**Summary Table 2: Proposed mitigations assessed against criteria**

Issue	Description of mitigation	page #	Criteria		
			Tangible	Deliverable	Durably effective
1					
2					
3					
4					
5					
6 and so on					

**3 Evidence and omissions in the SIA**

**Summary Table 3: Critique of evidence**

Main claims on which SIA relies	Notes:	page #
Omissions		

**4 Distributional equity: who benefits and who will suffer as a result of this project**

**Summary Table 4: Distribution of likely social costs and benefits**

Who will experience a social benefit in non-financial terms	Who will experience a social benefit in financial terms	Who will suffer a social detriment in non-financial terms	Who will suffer a social detriment in financial terms

**5 The likely social impacts with and without the proposed project**

**Summary Table 5: With and without the proposed project**

Before (the situation now)	After with the proposed project	After without the proposed project

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