IAIA19, Brisbane: Evolution or Revolution: Where next for impact assessment?

Session title: Institutionalising SIA Practice within Government Decision-Making

Presenting author: Richard Parsons Richard.Parsons@planning.nsw.gov.au
NSW Department of Planning and Environment, Australia

Title: Implementing the SIA guideline in New South Wales

Introduction

In September 2017, the Government of New South Wales, Australia, released a new social impact assessment (SIA) guideline (NSW DPE 2017) for extractive industries. It is now implementing this guideline while working on extending it to other sectors.

Developing the guideline required integrating established international SIA principles and frameworks (e.g. Vanclay et al. 2015; Vanclay 2003) with an existing policy and planning framework comprising the *Environmental Planning and Assessment Act 1979* (New South Wales Government 1979) and supporting regulation and policies. This task of 'institutionalisation' highlighted tensions between a normative, values-based SIA framework – i.e. one that describes what SIA *should* look like – and a descriptive/positive, rules-based framework – i.e. one that prescribes what *is* required (Parsons, Everingham, and Kemp 2018).

The resulting guideline, therefore, constrained by these tensions, may be viewed by some SIA practitioners as more evolutionary than revolutionary. Furthermore, even if relatively revolutionary on paper, its potential depends on how it is implemented, or institutionalised in practice. Implementing the guideline has involved similar challenges and tensions to those encountered while developing the guideline, with countervailing forces driving and inhibiting implementation.

Forces supporting uptake of the guideline

In general, forces driving uptake of the guideline reflect – and reinforce – changing social norms and expectations. In common with related discourses of corporate social responsibility, social licence, and community engagement, SIA represents a shift towards a more human-centred or holistic approach to development. Five dimensions of this shift can be identified.

1. *Community forces: pressure and shifting expectations*

Recent years have seen the impacts of development in NSW intensify, especially from urban and infrastructure development in Sydney, and mining development in the Hunter Valley. This has brought inevitable social pressures as people live with ongoing changes to their surroundings and a perception that they are relatively powerless to influence the pace or direction of change. Projects such as the WestConnex motorways, and industries such as coal-seam gas and coal mining, have encountered significant community resistance.

At the same time, community expectations of developers are always changing, in response to evolutions in the discourse of development itself. That is, the way we, as a society, both talk about and practise 'development' is constantly evolving. For instance, community engagement is now firmly at the centre of how we expect developers to practise development, and 'social licence' has become a common term to refer to the need for large organisations to seek and maintain

community approval (e.g. Luke 2017; Parsons & Moffat 2014; Thomson & Boutilier 2011). As a result, people are demanding that both government and private developers carefully consider how projects might affect their communities, before approval is granted or before a design is finalised. The SIA guideline, in this context, can be seen as complementing and responding to pre-existing and evolving societal expectations.

2. Industry forces: desire for more clarity and certainty

If there is one thing that industry proponents dislike, it is uncertainty. In this case, uncertainty had arisen from a lack of clarity on what the Department required in terms of SIA. Legislation required proponents to consider social impacts but did not specify how. Industry representatives such as the NSW Minerals Council had therefore expressed a desire for clear guidance. The guideline provides greater clarity around the 'how' by specifying requirements and providing a methodological framework. In response, industry has largely welcomed the guideline and many proponents have used it, including some outside the resources sector that are not formally required to do so.

3. Departmental forces

3.1. Leadership

The internal driving force behind the guideline came from the top; the Department of Planning and Environment's Secretary, when still fairly new in the role in 2016, identified SIA as an area in need of improvement. This was critical in raising the profile of SIA internally, and led to the creation of a new position of SIA Specialist. Concurrently, the Department has promoted a more community-oriented approach to planning, with greater emphasis on community engagement.

3.2. A collaborative approach to development and implementation

SIA, as articulated in international frameworks, is underpinned by strong ethical research principles such as inclusivity, methodological rigour, materiality (focusing on what matters most to those affected), and transparency. As such, the departmental team developing the guideline felt it important to practise these principles themselves. Compared with traditional, 'top-down' approaches to policy-making, the process of developing the guideline was relatively collaborative, using a range of forums to seek advice and insights from experts, from industry, from consultants, from interest groups, from other departmental teams, and from communities in mining-affected regions (Parsons, Everingham & Kemp 2018).

As a result, the 'institutionalisation' of SIA in NSW, via the launch of the guideline, was not a surprise to anyone, and the final content incorporated many of the aspirations and (sometimes competing) interests of various stakeholders. Subsequently, many consultants have accepted invitations to discuss the provisions of the guideline and how it applies to their projects. Internally, the SIA team has worked closely with Assessment Officers to support them in learning a new discipline.

This collaborative approach has helped to diminish the risk of the guideline being perceived as unnecessary 'red tape', while simultaneously demonstrating that the Government genuinely respects community concerns and aspirations for sustainable and responsible development.

3.3. The quality of the guideline itself

Support from industry, departmental leadership, community pressure, and a collaborative approach are all important ingredients in driving uptake of the guideline, but ultimately, they all need to be

underpinned by a high-quality document. Although it leaves room for improvement (Parsons, Everingham & Kemp 2018), the guideline has been widely praised for its comprehensiveness and usefulness.

Consultants and academics – the people mostly responsible for applying it – have welcomed it as filling a much-needed gap in supporting professionalism and integrity in SIA, and as being consistent with what they consider to be leading practice. This lends the guideline credibility and legitimacy as a suitable framework and tool for considering social impacts. Such legitimacy was further enhanced in the Rocky Hill judgement in the NSW Land and Environment Court, which closely followed the guideline to assess likely social impacts (Gloucester Resources Limited v Minister for Planning [2019] NSWLEC 7).

Forces inhibiting uptake of the guideline

Kurt Lewin's model of change and idea of 'force fields' (see Schein 1996) provides a mechanism for considering forces that have inhibited uptake of the guideline, existing in tension with the above driving forces. These forces operate both internally (i.e. within government) and externally. According to Lewin's model, these are the restraining forces that must be 'unfrozen', or the practices that must be 'unlearned', for change to be effective.

1. *Resistance to change*

Notwithstanding the efforts made to collaborate with all stakeholders in developing and implementing the guideline, its introduction represents change, both for industry and for departmental officers. Change can be expected to meet with resistance as the status quo is being questioned (Schein 1996).

Among industry stakeholders, while most welcomed the guideline, some saw it as another expensive hurdle to jump through, or 'red tape' to negotiate, in order to gain project approval. One industry group sought to obtain exemption from having to apply the guideline. When the guideline is extended to other sectors, more resistance is likely, especially among industries whose projects are relatively small, and among any institutions that do not want their projects exposed to critical scrutiny.

Internally, the guideline has also encountered some resistance, despite the Secretary's advocacy. Some argue that social impacts have always been adequately considered as part of other environmental assessments and that there was consequently no need for a distinct consideration of social impacts. This position reflects a technocratic view of SIA, where social impacts are defined in terms of tangible and measurable matters such as noise and dust levels, or measured through proxy indicators. It overlooks many of the key dimensions of SIA such as qualitative methods, a focus on how people actually experience impacts, and differences in how impacts are distributed.

2. *Pressures on assessment times*

Another internal force inhibiting uptake has been increased pressure to reduce departmental assessment times, combined with the assumption that applying the SIA guideline will make tighter timelines more difficult to achieve. At the time of the release of the guideline, the Department was in the middle of a drive to halve assessment times for major resources projects. A new requirement to assess social impacts more thoroughly could be seen as conflicting with that objective.

For proponents, too, project timing and budgetary pressures mean that anything perceived to delay, and/or increase the cost of, project approval raises concerns. If the Department considers that a proponent has provided insufficient information on social (or any other) impacts to enable it to evaluate the merits of a proposal, it can require that proponent to do more work. Making such requests has indeed met with some resistance owing to the resultant delays and associated costs.

3. Discomfort with 'non-technical' sciences

Related to the technocratic view is a conceptualisation of impact assessment as a quantitative, objective enterprise. This dominant view assumes that likely impacts of a proposal can be quantitatively predicted, albeit with some level of uncertainty, and that the various impacts can be weighed against each other to reach an objective decision about the project's desirability.

This view is problematic even for environmental and economic impacts because, although many can be quantified, they depend on a series of assumptions built into the modelling. Furthermore, ultimate decision-making relies upon a set of value judgements regarding the relative significance of various matters such as biodiversity, groundwater levels, employment, and revenue. When this view is applied to social impacts, it becomes even more problematic, because SIA relies partly on qualitative concepts such as wellbeing, community cohesion, distributive equity, and perceptions of these things (DPE 2017).

This has created a challenge internally for Assessment Officers trained in technical sciences. They are mostly experienced in biophysical sciences, not social sciences. Even if they respect community opinions, they may view these opinions as less significant than biophysical 'facts'. For a non-social scientist, it may be difficult to distinguish between a SIA report that applies social science well and one that omits significant methodological aspects and relies on unsubstantiated assertions. In a survey of Assessment Officers in 2017, they cited their greatest challenge as being how to 'measure' social impacts and, in turn, how to 'weigh' them against other impacts and each other. This reflects a misunderstanding of SIA.

4. Lack of professional capacity

Just as the Department lacks deep and widespread expertise in SIA, the environmental impact assessment consultancies are heavily dominated by biophysical scientists and town planners. There are some, but very few, SIA professionals among EIA consultancies qualified and experienced to the level required by the SIA guideline. This has created problems, especially among smaller companies that have been doing SIA as part of EIA for some time and that have assumed that existing practice will suffice.

Addressing these restraining forces may help to increase uptake over time.

Shifting the balance

Resistance to change, and the technocratic view of SIA, can be countered—or in Lewin's terminology 'unfrozen'—by referring to the Rocky Hill judgement in February 2019 (Gloucester Resources Limited v Minister for Planning [2019] NSWLEC 7). The judgement clearly identifies secondary social impacts that can flow from tangible amenity impacts such as noise and dust, and further identifies distinct social impacts that cannot be considered as part of any other technical assessment, such as community cohesion and character, sense of place, mental health and wellbeing, fears and aspirations, and distributive equity. This major decision provides significant 'psychological safety' (Schein 1996) in the validity of SIA as a practice and as a decision-making consideration.

Concerns regarding SIA increasing assessment times and costs during a period of pressure to decrease them are difficult to assuage. High-quality SIA does take time, and adds cost, and we need to be honest about this. One response may be to encourage earlier commencement of the SIA process. Another response is to point to evidence that failure to address the social impacts of development adequately, or a lack of social licence, risks costing time and money in the longer term, owing to increased likelihood of community resistance (e.g. Jijelava & Vanclay 2018).

To address the discomfort of Assessment Officers with SIA concepts and methods, the Department has developed internal practice notes and other resources drawing on previous SIA studies and academic literature, has provided introductory training, and has two SIA Specialists to provide ongoing support. These arrangements need to be regularly reviewed and arguably enhanced, given the large number of projects being assessed by the Department. Meanwhile, it is worth noting that attempts to quantify social impacts would provide only an *illusion* of objectivity, since they depend on assumptions and value judgements.

To address the lack of professional capacity in the consulting industry, the Department's SIA Specialists have been clearly explaining the level of qualifications and experience required, while encouraging participation in training. Nevertheless, there may be a lag between the new requirements being in force and the industry acquiring the appropriate skills. This presents an opportunity for consulting companies wishing to broaden their services, for current and emerging 'boutique' consultancies specialising in SIA, for educational institutions looking to make links between courses and careers, and for trained social scientists looking for meaningful work.

References

Gloucester Resources Limited v Minister for Planning [2019] NSWLEC 7.

Jijelava D, Vanclay F. 2018. How a large project was halted by the lack of a social licence to operate: Testing the applicability of the Thomson and Boutilier model, *Environmental Impact Assessment Review, 73*, 31-40, DOI: 10.1016/j.eiar.2018.07.001.

Luke H, Brueckner M, Emmanouil N. 2018. Unconventional gas development in Australia: A critical review of its social license, *The Extractive Industries and Society*. https://www.sciencedirect.com/science/article/pii/S2214790X1830234X

[NSW DPE] New South Wales Department of Planning and Environment. 2017. Social impact assessment guideline for State-significant mining, petroleum production, and extractive industry development.

New South Wales Government. 1979. *Environmental Planning and Assessment Act 1979*. No. 203. https://www.legislation.nsw.gov.au/#/view/act/1979/203/full.

Parsons R, Everingham J-A, Kemp D. 2018. Developing social impact assessment guidelines in a pre-existing policy context, *Impact Assessment and Project Appraisal,* DOI: 10.1080/14615517.2018.1485612.

Parsons R, Moffat K. 2014. Constructing the meaning of 'social licence', *Social Epistemology, 28*(3-4), 340-363, DOI:10.1080/02691728.2014.922645.

Schein EH. 1996. Kurt Lewin's change theory in the field and in the classroom: notes towards a model of management learning'. *Systems Practice*, 9, 1, 27–47.

Thomson, I, Boutilier, R. 2011. The social license to operate. In *SME mining engineering handbook*, 3rd ed., ed. P. Darling, 673–90. Colorado, CO: Society for Mining, Metallurgy, and Exploration.

Vanclay F, Esteves AM, Aucamp I, Franks DM. 2015. *Social impact assessment: guidance for assessing and managing the social impacts of projects*. International Association for Impact Assessment. https://www.iaia.org/uploads/pdf/SIA_Guidance_Document_IAIA.pdf.

Vanclay F. 2003. International principles for social impact assessment. *Impact Assessment Project Appraisal, 21*(1): 5–11.