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Stephen O'Connor, Chair
Professor Snow Barlow and John Hann

Panel members

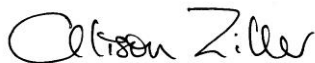
Independent Planning Commission

<https://www.ipcn.nsw.gov.au/projects/2020/03/narrabri-gas-project>

Further submission re. proposed Narrabri Gas Project

I have been briefed by the Environmental Defenders Office, acting on behalf of the North West Alliance (NWA), to provide an expert review of social impact considerations in the Department of Planning, Industry and Environment's (DPIE's) Response to the IPC's Questions regarding the proposed Narrabri Gas Project. My review is attached,

Yours sincerely



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Expert review of social impact considerations in the DPIE Response to IPC questions re. the proposed Narrabri Gas Project

This review addresses aspects of the DPIE Response¹ which are relevant to the consideration of social impacts of the proposed Narrabri Gas Project.

- 1 This Response appears to be the first time that DPIE has directly addressed the question of Ecologically Sustainable Development (ESD). For example, ESD is not mentioned in the DPIE Final Assessment Report.

The Response endeavours to show that the DPIE assessment responds to several objects of the *Environmental Planning and Assessment Act 1979* (EP&A Act) including Object b in section 1.3 which specifically requires ‘the effective integration of economic, environmental and social considerations in the decision-making process’ (Response p2). There is however no evidence that this has been done with regard to social impacts. In both the Final Assessment Report and this Response, DPIE merely repeats the assertion that the project would provide substantial social benefits for NSW and the Narrabri region. Repeating something doesn’t make it true.

- 2 The DPIE Response advises that DPIE has a

... practice of seeking to avoid a formulaic or template approach to the assessment of ESD on major projects where every principle and program is considered explicitly and in isolation in assessment reports, even if they are irrelevant to the specific circumstances of the project, as this can lead to significant repetition and duplication in reports - due to the complex interaction of economic, social and environmental matters on major projects – and quarantine these matters in a manner that fails to integrate and communicate the key components of ESD with the broader assessment of the merits of the project. (Response p 3)

In effect, DPIE is claiming here that they have made an integrated decision but avoided anything that might look like a formula or template. Since they don’t seem to have done anything with the social impacts except repeat Santos’ claims, they have not only avoided documenting how they integrated these factors but seem to have avoided dealing with them altogether.

- 3 The Response claims ‘the recommended conditions seek to establish a strict regulatory regime for the project’ (Response p3). This is not true for the social conditions of consent which are not strict, are largely in the hands of the applicant to deliver, and have no enforceable penalties. The principal social condition of consent is a social impacts management plan (known as a SIMP) which is described in terms of processes to be followed, but not in terms of tangible outcomes to be achieved. There are a several problems with this:

¹ The document is sourced at: <https://www.ipcn.nsw.gov.au/resources/pac/media/files/pac/projects/2020/03/narrabri-gas-project/correspondence/department/200814-in-dpie-responses-to-ipc-questions.pdf>

- i The aim of each process is described in general terms (e.g. Condition B81(c) ‘The plan must... identify negative social impacts’). It is unclear what specifically would constitute a tangible outcome of this requirement, but at best it would be a list of impacts.
- ii The proponent is responsible for the conduct of the required processes but has already stated that there will be few negative social impacts (e.g. EIS Summary p 21, Response to Submissions s6.26). This repeated position pre-empts the process.
- iii The SIMP requires several processes but does not require achievement of results. For example, the SIMP is required to ‘identify opportunities to ... improve the way of life, wellbeing, and social cohesion within the local community’ (Condition B81(e)(ii)) however, identifying opportunities is not the same as achieving results. No section of the SIMP Recommended Condition requires the proponent to achieve a social benefit as an outcome.
- iv Evidence has been submitted that the actions of the proponent have undermined social cohesion in the local community². For this reason the proponent is not well placed to be the agency responsible for promoting social cohesion.
- v The SIMP as a condition of consent also fails to address the financial conflict of interest inherent in placing the management of social impacts in the hands of the proponent in a situation in which there is no realistic mechanism to secure adequate, sufficient or timely responses to social consequences.

For all these reasons the SIMP cannot be regarded as a strict regulatory regime to address the social impacts of the project.

- 4 The Response reduces the precautionary principle to issues concerning environmental damage. This is contrary to DPIE’s SIA Guideline which defines the precautionary principle as

If there is a threat of serious or irreversible damage to the environment³, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental (including social) degradation. (DPIE SIA Guideline p10)

At page 41, the DPIE SIA Guideline requires application of the precautionary principle in situations where uncertainty about potential impacts is high. The Narrabri Gas Project falls clearly into that category.

The Response does not address social damage as an issue requiring precaution. Excluding social damage from the precautionary principle is inconsistent with an ESD approach to the assessment of this project.

² For example, Mr Tony Pickard presenting to the IPC re the Narrabri Gas Project on 21 July 2020, Transcript: p97: <https://www.ipcn.nsw.gov.au/resources/pac/media/files/pac/projects/2020/03/narrabri-gas-project/public-hearing/transcripts/200721-day-2-narrabri-gas-project-public-hearing-transcript.pdf>

³ Section 4(1) of the EP&A Act defines ‘environment’ to include ‘all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings

- 5 Defining intra-generational equity as a component of intergenerational equity is unusual (Response p4). The DPIE SIA Guideline's definition of distributive equity is

how social impacts are distributed within the current generation (particularly across vulnerable and under-represented groups) and between current and future generations. (DPIE SIA Guideline p 10)

In this definition intra- and inter-generational equity may be related but are clearly not the same. However, the main problem is that, again, the Response deals with social issues assertively by dismissing them:

...it would promote the social and economic welfare of the current generation without imposing any significant burdens on individuals or groups within the existing local or regional community and without compromising the needs of any future generations. (Response pp4-5)

Following this, the Response merely lists (at pp 5,6) what the Final Assessment Report said.

- 6 Following a long discussion on climate change policy, the Response concludes

In summary, the Department does not consider the Narrabri Gas Project to be inconsistent with the principle of intergenerational equity. (Response p8)

However, none of this discussion takes any account of the social consequences of a) climate change or b) failing to address climate change on a project by project basis.

- 7 In the last paragraph on p 8, the Response seems to be saying that Advisory Groups constitute a fair process. This is a new theme described as follows

... the recommended conditions seek to encourage ongoing community participation during the implementation of the project should it be approved and provide for community involvement via the Community Consultative Committee, Water Technical Advisory Group and Aboriginal Cultural Heritage Advisory Group. They also require Santos to make all relevant information on the environmental performance of the project, including compliance with the recommended conditions, publicly available during the project. This is consistent with the concept of ensuring a fair process, ... (Response pp 8-9)

Advisory Groups have no powers and are limited in size and composition. The Chair of a Community Consultative Committee is appointed by DPIE and oversees the appointment of up to 7 community and stakeholder representatives⁴. Anyone can apply to be on this committee but the invitation comes from the proponent and the selection process is in the hands of the DPIE's representative. It is difficult to see how members of a community in which there is a high degree of opposition to the Narrabri Gas Project will see this as a fair process – for example as a process allowing for adequate airing and resolution of concerns.

⁴ The proponent appoints 3 members and each LGA concerned with the project has one member:
<https://www.planningportal.nsw.gov.au/major-projects/sites/default/files/documents/2019/Community-Consultative-Committee-Guideline-31-01-2019.pdf>

- 8 In more than one part of the Response (e.g. also at p 12, item 2), DPIE says it has been exemplary in its communication with the general public. For example

... the Department has consulted extensively with key stakeholders and sought to encourage community participation. These efforts have gone well beyond the statutory requirements in the EP&A Act, and they have included making all the information associated with the project publicly available, exhibiting the EIS for 90 days, holding public information sessions, meeting with key stakeholders, and visiting the site and surrounds.

However, the Response goes on to say

The Department has also considered and weighed up all the matters raised during this consultation, including submissions received during the public exhibition period, in its evaluation of the project. (Response p8)

This is a separate point. If the Department has considered and weighed all matters to do with social impacts, the evidence for this process is undocumented and unclear in both the DPIE Final Assessment Report and the DPIE Response.

- 9 Finally, the degree to which DPIE endorses and uncritically trusts the information provided by the applicant is demonstrated repeatedly in this Response and, in my opinion, seems inconsistent with its duty to represent the public interest. DPIE also adopted this approach in its Final Assessment Report.