

SIA Review re. proposed McPhillamys Gold Project

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Abbreviations

BSC	Blayney Shire Council
CSP	Community Strategic Plan
DA	Development application
DPE	Department of Planning and Environment (NSW)
ES	McPhillamys EIS Executive Summary
EIS	McPhillamys Environmental Impact Statement
FTE	Full time equivalent
LALC	Local Aboriginal Land Council
LGA	Local government area
PAA	Primary Assessment Area (nominated by the proponent)
RR	Regis Response to the DPE SIA Expert Review
SIA	Social impact assessment
SIMP	Social Impact Management Plan
VPA	Voluntary Planning Agreement

Introduction

I have been briefed by the Environmental Defenders Office, acting on behalf of Belubula Headwater Protection Group to review the Social Impact Assessment conducted by the proponent Regis Resources Ltd [Regis] regarding the proposed McPhillamys Gold Project [the Project] and prepare an expert opinion on the appropriateness and adequacy of the assessment. I have been asked to address the following:

- a Please summarise any social impacts predicted to arise as a consequence of the Project.
- b In your opinion, does the Department's Assessment Report and Recommended Conditions of Consent accurately and adequately consider, and respond to, the social impacts of the Project?
- c What, if any, concerns do you have about the social impacts of the Project, bearing in mind the mitigation measures proposed?
- d Provide any further observations or opinions which you consider to be relevant.

I have reviewed the documentation about the Project available on the NSW Department of Planning and Environment [DPE]'s website. I have taken particular account of the most recent documentation on social impact issues, namely the SIA Expert Review, the Regis Response to that review [RR], the DPE Assessment Report [DAR] for this Project and the proposed conditions of consent.

I am a sociologist with twenty years' experience reviewing social impact assessments on behalf of non-profit agencies and the public sector. I have read and agree to be bound by Division 2, Part 31 of the *Uniform Civil Procedure Rules 2005* and the Expert Witness Code of Conduct. A short curriculum vitae is attached.

The following report is based on my experience and expertise in SIA. It sets out a summary of key social impacts likely to arise as a result of the project and provides an assessment of the adequacy of the proposed mitigations and conditions of consent to respond to these.

Alison Margaret Ziller

Signed electronically in accordance with section 9(1) of the *Electronic Transactions Act 2000* (NSW)

13 February 2023

Executive summary

While approval of this gold mine would result in up to \$65 million in royalties paid to the NSW government, RR p viii, the residents of Blayney Shire and Kings Plains would experience many significant adverse social impacts arising from the presence of the mine and its operation.

The documentation presented by both the proponent and the Department reveal that these social impacts would not be addressed by any of the proposed mitigations. In my view, not one of the mitigations proposed would be durably effective in mitigating the adverse impacts identified. In addition, some of the proposed mitigations are not deliverable by the proponent and therefore cannot be made a condition of consent. Further, some proposed mitigations may not proceed.

In my opinion, the Department has confused compensation payments to some individual landholders with a mitigation of social consequences for the community of Kings Plains. These payments will in fact hasten the fragmentation of the Kings Plains community and therefore would not act as a mitigation of loss of social cohesion or wellbeing.

The DPE Assessment Report relies on a number of unsubstantiated claims including, in the sections relating to social impacts, four statements to the effect that residual social costs would be 'acceptable under NSW government policy'. In each instance the policy is not named or cited. In the absence of information about the policies referred to, these statements carry no weight.

While the extraction operation would last a mere eleven years, the loss of Country for the Aboriginal community would be permanent. Neither the Regis Response nor the DPE Assessment Report appear to have considered the issue of destruction of Country. The Regis Response offers vague assurances of consultation and participation. These assurances are inadequate when measured against the value placed by the Aboriginal community on connection to Country.

The RR proposes a number of mitigations intended to be carried out as part of a Social Impacts Management Plan [SIMP], which is proposed to contain at least 13 component plans and sub-plans. Despite a lack of evidence, the DPE Assessment Report accepts the SIMP as credible and effective and has limited the proposed conditions of consent relating to social impact issues to preparation of the SIMP. The proposed conditions of consent are said to be

strict and precautionary (DAR p ix, 95). For reasons set out in this report, in my opinion the conditions of consent are not strict and precautionary but weak and ineffectual.

The most striking feature of this proposed project is its disproportionate and negative impact on the local community.

Likely social impacts

The McPhillamys Gold project is a proposal for an open cut gold mine in Blayney Shire. The village of Kings Plains is within 1 kilometre of the mine site, with some dwellings closer than 1000m. Altogether, 85 residences are less than 2 km from the site. The proposal states that ore would be extracted over a period of eleven years and resultant changes to landforms would be rehabilitated with the exception of the void which would remain and become a pit lake.

The Regis Response to the DPE SIA Expert Advice¹ addresses likely social impacts in terms of the categories used in the SIA Expert Review and as such there seems to be agreement between Regis and the Department as to the social impacts that should be considered as a result of this project. An abbreviated summary of social impacts identified in the RR report is in Table 1.

Table 1: Social impacts identified in the Regis Response to the DPE SIA Expert Review

Likely adverse impacts		Likely social benefits	
Abbreviated description	page	Abbreviated description	page
Outmigration from the PAA* currently estimated as comprising 202 persons	3 -12	Refuse collection	12
Noise in excess of Trigger Levels	14	Installation of fibre optic & improved mobile communications	12
Loss of amenity	17	Strengthened bushfire capability	12
Aesthetic, cultural, spiritual & recreational losses	21	Benefits to local businesses through capacity development	28
Loss of sense of place / rural way of life	24		
Adverse noise, dust, air quality impacts	25		
Loss of Aboriginal cultural values	25		
Workforce accommodation	26		
Contamination & dangerous goods	27		
Labour draw	28		
Gender related safety issues	28		
Mine closure	29		

*PAA is the primary assessment area as defined by the proponent

¹ Letter to DPE dated 14 November 2022

This is the proponent's list of social impact issues. While Table 1 abbreviates social impacts which have multiple features and effects, it shows there are twelve likely adverse social impact categories and four beneficial ones. There is no direct relationship between the two lists, that is, the benefits do not directly address any of the likely adverse impacts.

Reasons for proceeding

The Department says that the gold should be mined because it is there, DAR p iii, and that minerals mining should be endorsed in order to offset 'decreasing reliance on coal and fossil fuels in the mining and energy sector', DAR p viii.

In my opinion the first reason lacks logic. The Department seems to be saying that mining of coal and fossil fuels should not necessarily take place just because they are there, but that the gold deposit should be mined because it is.

Perhaps the second reason has been more clearly expressed by the Premier, as reported in the Sydney Morning Herald on 1 December 2022:

Albanese is expected to announce a suite of measures to reduce soaring energy costs next week in what has become a key test of his government. Among the measures being sought by industry and unions are caps on the price of gas and coal. But Perrottet has warned that coal-rich NSW should not wear the cost, which would hit state coffers by reducing royalty payments from miners that are calculated based on the value of coal sales.²

The DPE Assessment Report quantifies this contribution to state coffers at p viii:

The project would have considerable economic benefits for the region and NSW through employment (about 710 construction and about 260 operational jobs) and up to \$65 million (net present value) royalties in total over the life of the project, and up to \$11 million per year.

Thus it seems that the proposed mine is supported despite the imbalance between positive and adverse impacts on the grounds of revenue to the state

² Nick O'Malley & Mike Foley, States abandon federal government to face the energy crisis alone, SMH 1 Dec 2022: <https://www.brisbanetimes.com.au/politics/federal/states-abandon-federal-government-to-face-the-energy-crisis-alone-20221201-p5c2we.html?ref=rss>

and jobs created. I have not found, in the documents submitted, an account of how the number of jobs claimed was arrived at.

Mitigation criteria

Given the number of likely adverse consequences for the residents of Kings Plains and Blayney Shire the adequacy of proposed mitigations is a key question.

A mitigation is an action which reduces or ameliorates the impact arising from the proposed project. For a proposed action to be considered a mitigation, it must be tangible, deliverable and durably effective.³ These criteria mean that a proposed mitigation should be material, able to be delivered by the proponent and likely to be effective in both the short and long term.

Regis objects, RR p 16, to having these criteria applied to this project's mitigations on the grounds that these precise words are not included in the DPE 2017 SIA Guideline.⁴ However, an initiative which

- is not tangible,
- may not be deliverable because its content is not yet settled or determined or delivery is not within the proponent's role or capacity, and/or
- which may be ineffective either immediately or in the long term

is not a mitigation but simply an assertion.

In this case, the proponent is proposing to significantly change a landscape in perpetuity. The proposal raises a number of social risks, some but not all of which are recognised by the proponent via a series of proposed actions in response. As the following table indicates, not one of the actions proposed by the proponent meets the reasonable criteria for effective mitigation of these social risks. That is, as shown in Table 2 below, in my opinion, the social impact risks identified by the proponent (in RR) to the DPE SIA Expert Review have no tangible mitigations that can be delivered by the proponent and are likely to have any effect.

³ Preston B 2019, Decision: Gloucester Resources Ltd v Minister for Planning [2019] NSWLEC 7 para 418

⁴ NSW DPE 2017, Social impact assessment guideline, For State significant mining, petroleum production and extractive industry development, September: <https://www.planning.nsw.gov.au/-/media/Files/DPE/Guidelines/social-impact-assessment-guideline-2017-09.pdf>

At p 44, the Guideline sets out consideration for mitigations including whether a mitigation requires an proponent to state whether a proposed mitigations would require action by another party, and is capable of addressing all reasonably foreseeable scenarios

Table 2: Assessment of mitigations proposed in Regis Response to the DPE SIA Expert Review against the mitigation criteria

Abbreviated description	Proposed mitigation	Mitigation criteria		
		Tangible	Deliverable by Regis	Durable effectiveness in mitigating the problem or risk
Out-migration from PAA	<ul style="list-style-type: none"> Bespoke mitigations minimising or eliminating negative impacts 	Air conditioning Double glazing Landscaping	Yes	May not be effective in mitigating impacts (see pp10-12 below) Appears to be available to only 21% of landholders in the locality
	<ul style="list-style-type: none"> Negotiated agreements 		Yes	No: Negotiated agreements are financial compensation payments for departing residents
	<ul style="list-style-type: none"> Offset by incoming residents 		Yes	No; New residents will be Regis tenants (p26) not owners – not a comparable outcome
	<ul style="list-style-type: none"> Regis acts as good neighbour 		Yes	No: Statement of good intent only
Noise in excess of trigger levels	It won't happen (Regis p14)		Yes	No: Statement of good intent only
Loss of amenity	<ul style="list-style-type: none"> Regis acts as good neighbour 		Yes	No: Statement of good intent only
	<ul style="list-style-type: none"> Involve local residents in rehabilitation planning 		Yes	No: Statement of good intent only
Ecosystem losses ⁵	<ul style="list-style-type: none"> Regis acts as good neighbour 		Yes	No: Statement of good intent only
	<ul style="list-style-type: none"> Bespoke mitigations minimising or eliminating negative impacts 	Air conditioning Double glazing Landscaping	Yes	No: May not be effective in mitigating aesthetic losses.
	<ul style="list-style-type: none"> Groundwater management plan 		Yes	No: Statement of good intent only
Sense of place	SIMP sub-plans		Yes	No: Statement of good intent only
Noise, dust etc	<ul style="list-style-type: none"> Negotiated agreements 		Yes	No: Statement of good intent only
	<ul style="list-style-type: none"> Regis acts as good neighbour 		Yes	No: Statement of good intent only
Loss of Aboriginal values	<ul style="list-style-type: none"> Consultation & SIMP 		Yes	No: Statement of good intent only
Workforce accommodation	<ul style="list-style-type: none"> 3rd party provide demountable village for construction workers 	Yes	No	May not eventuate as reliant on 3 rd party
	<ul style="list-style-type: none"> overflow accommodation by approved local suppliers 	Yes	No	May not eventuate as reliant on 3 rd party
	<ul style="list-style-type: none"> accommodation of operational workers under consideration 	No	Yes	No: Statement of good intent only. Consideration may have no outcome.
Dangerous goods	<ul style="list-style-type: none"> 4 plans 		Yes	No: Statement of good intent only
Labour draw	<ul style="list-style-type: none"> SIMP 		Yes	No: Statement of good intent only
Gender safety	<ul style="list-style-type: none"> Little evidence for these risks 	No	No	Fails to take account of extensive literature. Proponent is not responsible for public safety, policing or community responses to the presence of mine workers.
	<ul style="list-style-type: none"> Workforce Management Plan 		Yes	No: Statement of good intent only
Mine closure	<ul style="list-style-type: none"> SIMP 		Yes	No: Statement of good intent only

⁵ Described as Spiritual enrichment, reflection, recreation and aesthetics generally associated with rural vistas and access to water. RR p 21

Mitigating impacts on Kings Plains locality?

Out-migration, noise, dust and visual amenity

The principal adverse social impacts affecting the Kings Plains settlement and locality arise from noise, dust, loss of visual amenity and loss of social cohesion, social connection and sense of place.

The Regis Response addresses the concern that a significant social impact of the proposed mine will be out-migration of the current residents of Kings Plains. Out-migration may be due to loss of visual amenity, and noise and dust impacts or loss of community as residents depart. Out-migration of residents and landholders in Kings Plains settlement and locality will negatively impact the social structure and cohesion of these areas due to loss of community members. The inadequacy of Regis' proposed mitigation actions is telling.

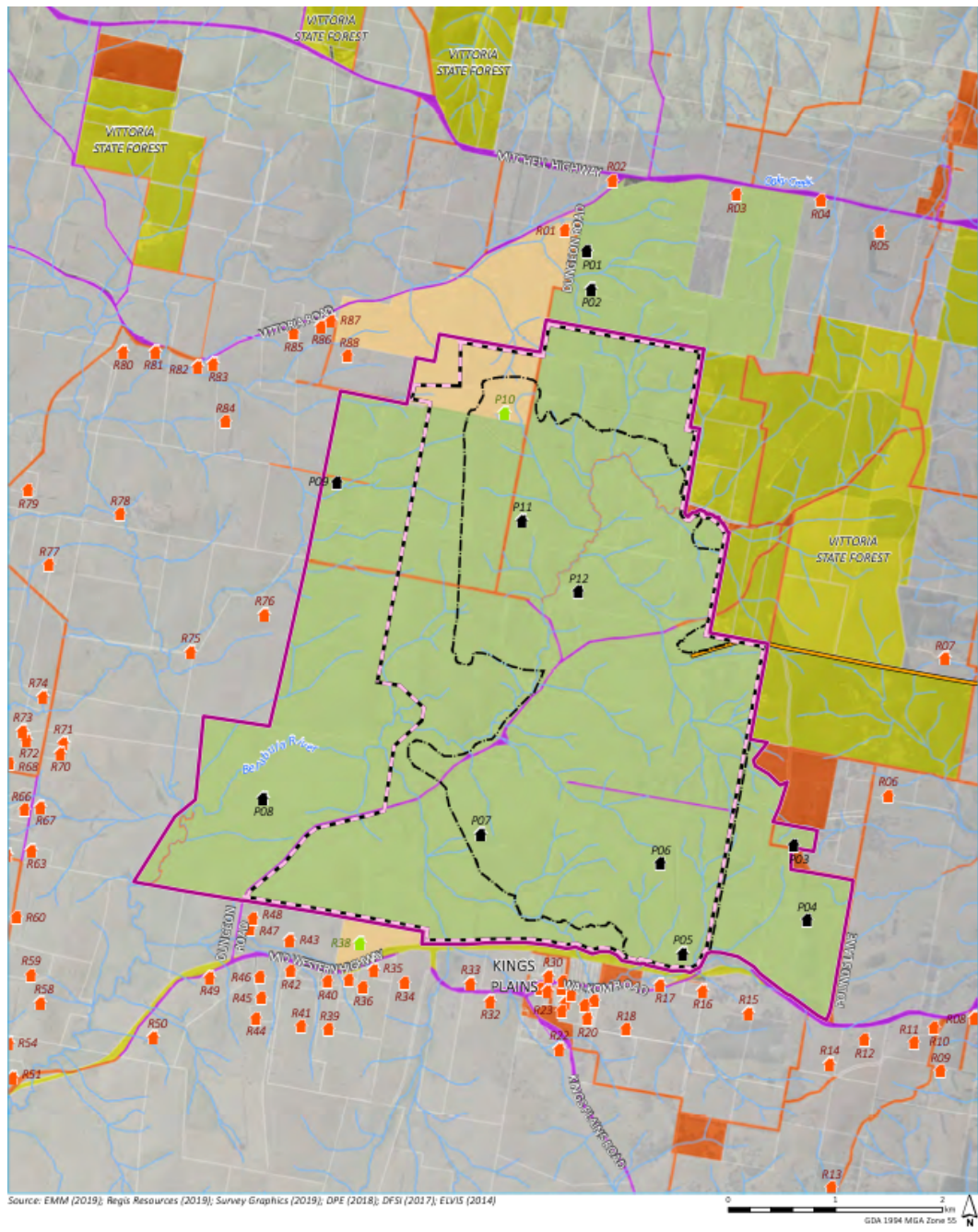
Regis' proposal

The principle proposed mitigation is the availability of negotiated agreements under which 18 landholders would be able to sell their properties to Regis. These negotiated agreements are presented as a mitigation, but they are in fact a financial compensation device to assist out-migration, that is to further the social impact.

As each negotiated agreement is a private matter between the landowner and Regis, it is not possible to say whether the agreed price adequately compensates financial costs to the landholder. For example the financial compensation may be in the form of property purchase but may not include costs incurred using temporary housing, or interest payments on new loans or mortgages. In addition, it is unclear whether negotiated agreements compensate landowners financially for social and/or health costs associated with moving or for the fact that they have little choice as to whether or not to leave.

Negotiated agreements are being offered to 18 landholders but there are 85 residences within 2 km of the mine site, some 40 are clustered to the south of the proposed site and some 34 are 1 km or less from the boundary. Sixty seven landholders, or 79% of those within 2 km of the mine site, are not being offered this proposed mitigation. It may be Regis' principle mitigation but it will be available to only 21% of affected households.

Map 1: Proximity of proposed mine to residences (Source EIS Figure 5.5)



Source: EMM (2019); Regis Resources (2019); Survey Graphics (2019); DPE (2018); DFSI (2017); ELVIS (2014)



0 1 2 km
GDA 1994 MGA Zone 55

KEY

<ul style="list-style-type: none"> ■ Sensitive receptors ■ Residences under option ■ Project-related residences Project application area Mine development project area (2,513.47 ha) Mining lease application area (1,812.99 ha) (Note: boundary offset for clarity) Disturbance footprint Pipeline corridor 	<ul style="list-style-type: none"> — Watercourse/drainage line Land ownership status (Regis, 2019) Regis Under option Controlling authority Crown Freehold Local government authority NSW government
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Land tenure - mine development

McPhillamys Gold Project
Environmental impact statement
Figure 5.5

Assessment

In my view the DPE Assessment Report errs in accepting that negotiated agreements mitigate the primary social impact on residents in the PAA. The Department does not appear to know what the level of compensation is and has confused an unknown, possibly partial, financial compensation to a minority of landholders with a mitigation of the fragmentation of community cohesion which these payments will in fact hasten.

Regis' proposal

The second proposed mitigation relates to noise and dust. While Regis says, at RR p14, that noise experienced will not exceed trigger levels, the DPE notes, DAR p iv, that 'operational noise would be noticeable at residences around the mine site in certain meteorological conditions', that is, exceedances are expected. The Regis response is to offer landholders property-specific management plans including opportunities to install air conditioning and double glazing. This offer is consistent with the idea that noise and dust levels, as experienced, will be adverse. However, it is unclear whether the offer applies only to the 18 landholders being offered a negotiated agreement, or applies also to others among the 85 properties within 2 km of the mine.

Assessment

The proposed mitigation would result in some households residing in enclosed environments for the duration of the construction and extraction operations in order for this mitigation measure to be effective. For example, in order to benefit from air conditioning and double glazing, residents would not be able to open their windows in the early morning, or in the evening, or at night as mining operation would occur 24/7/365, DAR pp 22-23. The health and welfare costs to residents of these living arrangements have not been identified. Further, it is unclear whether the remaining 67 landholders within 2 km of the mine will be offered these mitigations. All these 67 residences are close enough to experience noise and dust impacts from the mine.

Regarding noise, DPE concedes, at DAR p iv, that operational noise standards would be exceeded, but states

126. The Department considers that the construction and operational noise impacts could be managed to meet noise levels that would be acceptable under NSW government policy.

Similarly regarding air quality, DPE states

145. The Department considers that the air quality impacts of the development could be managed to meet levels acceptable under NSW government policy.

It is unclear what NSW government policies are referred to. A basic requirement to raise a statement from an unsubstantiated claim to a substantiated statement is availability of an appropriate reference. These statements by DPE are not accompanied by a citation, referring the reader to the relevant policy, and thus they are unsubstantiated. Similar unsubstantiated statements occur at DAR p vii and paras 178, 186 and 431. Unsubstantiated assertions carry no weight.

Regis' proposal

The third proposed mitigation is presented as an offset to out-migration, namely that dwellings purchased by Regis would be tenanted. This is not a like-for-like proposal and therefore not an offset. Regis notes, RR p 4, that the Kings Plains settlement – the area most vulnerable to amenity impacts - is largely comprised of 'life-style' lots whose residents are 'a mix of longer term residents... medium term residents... and new residents'. The relevance of length-of-residency mix is not stated.

Assessment

The issue is that owner occupiers will be replaced by tenants, either people already in the area seeking housing – and willing to take a dwelling adversely impacted by a nearby mine – or mine workers. This composition of new residents is not a substitute for an established community, some members of which belong to families which have been in the area for generations. It is thus not a mitigation.

DPE treats 'renting out acquired properties' (DAR para 197) as a measure 'to reduce out-migration'. In my opinion this is an error. Renting out acquired properties would be a financial strategy for Regis but not a good housing strategy for the area or Blayney Shire Council [BSC] since the tenants would not be landholders and would be living in circumstances sufficiently adverse to cause current residents to leave.

Regis' proposal

The fourth proposed mitigation is landscape treatments some of which, e.g. tree planting, RR pp19,20, have already commenced.

Assessment

Tree survival rates depend in part on climate. Climate is not considered in the Regis Response nor the vulnerability of tree planting to extreme weather

patterns. Further, the trees planted on Kings Plains settlement properties may require care for adequate growth or survival, for example during extreme weather events or drought. This is less likely to occur in tenanted properties. Poorly cared for trees will offer less screening.

DPE notes at DAR para 159 that some tree planting has already been undertaken, but that

171. ... the project would be highly visible from some areas in the south, particularly from the Kings Plains settlement ...

172. ... Regis has offered/entered into negotiated agreements with 18 landholders and committed to implement landscaping mitigation measures to reduce the impacts and. [sic] The Department considers that Regis' proposed mitigation measures would reduce these impacts to an acceptable level.

Since negotiated agreements are proposed as mitigation for loss of visual amenity, it appears the Department regards the landscaping treatments as of limited effectiveness for Kings Plains residents.

In view of these several considerations, in my opinion the efficacy of the proposed landscaping treatments is in doubt.

Regis' proposal

The fifth proposed mitigation is a list of ways in which Regis will act as a 'good neighbour'. In the case of the out-migration risk, these can be briefly summarised from RR pp 11,12 as:

- engage in and maintain dialogue with concerned residents
- undertake tailored consultation and information provision in the PAA
- property specific management plans
- demonstrate that Regis is a 'good neighbour'
- tenant Regis owned housing
- 'good neighbour' relations
- establish a complaints and grievance framework as part of a SIMP.

Assessment

I draw attention to the repetition in this list and the fact that apparently Regis is operating as development proponent in the area but does not already have a complaints and grievance process in place.

The Department notes, DAR paras 194 & 197, the various strategies proposed by Regis and targeted to individual landholders in Kings Plains (air conditioning, double glazing, landscaping and screening, temporary relocation, negotiated agreements and renting out of acquired properties). DPE also says, DAR para 197, that Regis has committed to 'engaging in activities to enhance community wellbeing and cohesion'.

However, the nature of activities which could be undertaken which might achieve any impact on community wellbeing and cohesion in these circumstances are not identified and thus not specifically required. Moreover, the idea that such activities exist is taken for granted and, despite the lack of any description, have been assessed, at DAR para 200, as 'consistent with industry best practice'.

There is no citation to support the assertion that these undescribed activities are industry best practice or that, if this is industry best practice, what these activities are and how it is known that they are either adequate or effective. In the absence of supporting documentation it is my opinion that this statement has the standing of an unsubstantiated claim.

Similarly DPE notes

The SIA acknowledges the potential impacts to the health, wellbeing and associated fears and stress experienced by the community, particularly the most affected residents in Kings Plains. These include fears and stress associated with sleep disturbance, air quality impacts, water impacts, traffic hazards and impacts associated with population influx. Regis proposes to address these impacts through commitments to undertake clear and transparent communications throughout the development and operation of the project, including the dissemination of monitoring results. (DAR para 207)

It is unclear in what way clear and transparent communications will address these adverse impacts on social wellbeing without a consideration of their content. In addition, monitoring and communication of monitoring results are to be managed by the proponent, but there appear to be no safeguards to ensure their timeliness or veracity.

In my opinion, this reliance on communications strategies to mitigate health and wellbeing impacts is seriously inadequate, whether or not a risk management communications specialist, DAR para 209, is engaged. The nature of the communications is not specified, their content is not known, their timeliness is

not required or subject to review except after the event, and there is no acknowledgement of the role the proponent's interests may play in any aspect of these communications.

In my opinion, landholders in Kings Plains would be justified in viewing 'clear and transparent communications' as a weak and ineffectual strategy to protect their health and wellbeing.

Summary

The case for approving this mine appears to rely on a series of suppositions: that the mine should proceed, that certain adverse social impacts are unavoidable and that adequate and acceptable mitigations for Kings Plains residents are available.

In my opinion the impacts on Kings Plains residents will be highly adverse and damaging to the local community. The DPE Assessment Report relies on several unsubstantiated claims in proposing that the actions named as mitigations will reduce these impacts 'as far as practicable', DAR para 200. But in reality, no effective mitigations are proposed.

In my opinion, approval of the mine would be at the unremedied cost of the social wellbeing of Kings Plains residents.

Mitigating impacts on Blayney Shire?

Worker accommodation

Both Regis and the DPE anticipate that the project will require 710 construction workers and about 260 operational workers, DAR p viii. Regis estimates that many construction workers will not be local residents and will be drawn from elsewhere. I note that the number of workers is asserted but the basis for this assertion is not provided.

The SIA (EIS Appendix T) estimated, p ix, that 55% of 710 FTE construction jobs (391 jobs) would be local hires. The Amendment Report revises this to 60% (426 jobs). That is, 40-45% of construction workers would not be local residents.

Assuming these estimates to be correct, some 300 workers would need to be housed. The Regis proposal, RR p 27, is for a demountable village to be constructed by a 3rd party.

Assessment

This demountable village is not deliverable by the proponent. It is therefore not a mitigation. It cannot be made a condition of consent, and:

- a third party may not be found / may not proceed / may not be reliable
- a suitable site for the demountable village may not be available / achieve planning consent
- construction of the village would require a DA which would need to be accompanied by a SIA. The SIA would address such questions as
 - a whether the village should be demountable, and what that means in terms of built form,⁶
 - b how its use and decommissioning would be controlled and managed for social impacts,
 - c steps needed to provide adequate services for the residents of the demountable village,
 - d social impact risks arising from the presence of a village of mostly male construction workers in a rural setting.

These issues may result in lengthy delays to construction of the village &/or a failure to construct. An assertion that construction workers would be housed in a demountable village constructed by a 3rd party has no standing as a planned, feasible and costed mitigating action by the proponent.

Not only is the proposed demountable village not a mitigation, its delivery has been assumed to be a social benefit to the region and its social costs have been omitted. These costs include:

- costs borne by the Council in determining a DA to construct the village
- potential costs borne by residents in the vicinity of the village
- costs borne by objectors to the proposal
- costs arising from the presence of a mining camp including costs to the social wellbeing of residents and the workers themselves.

Regis states, RR p 28, 'these [gender related] assumed impacts have little evidence base'. This is incorrect. There is a substantial literature on the gender related social costs of mining camps.⁷ In addition Regis states, RR p 27, it does not have a strategy or plan for accommodation of operational workers who seem to be expected to find their own accommodation despite likely housing

⁶ For example, are barracks or mobile homes intended?

⁷ Including but not limited to: House of Representatives, 2013, [Cancer of the bush or salvation for our cities? Fly-in, fly-out, drive-in, drive-out workforce practices in Regional Australia](#).

shortages in the region⁸ which the influx of these workers will exacerbate. Overall, the issue of worker accommodation is dealt with by assurances and by omission of financial and social costs to other parties.

The DPE Assessment Report appears to accept these assurances as adequate and to have relegated the question of accommodation of non-local construction workers to a Workforce Accommodation and Management Framework to be prepared as part of the Social Impacts Management Plan [SIMP].

In my opinion, this is inadequate. A Framework or Plan is not a demountable village and may not achieve one. A demountable village is not a mitigation deliverable by the proponent. There is no social impact assessment regarding the social impacts of a demountable village in Blayney LGA for some 300 non-local workers.

Since provision of worker accommodation is not the responsibility of the proponent, the DPE statement that

213. The proposed SIMP would include measures to address accommodation demands without adversely impacting tourism growth in the region or availability.

Is an unsubstantiated claim.

Community infrastructure

Regis notes, RR p 16, that the content of the Voluntary Planning Agreement [VPA] is a matter for Blayney Shire Council [BSC] and aims to provide the council 'with financial resources to implement prioritised actions from the BSC Community Strategic Plan'.

Regis assumes, RR p 16, that the Community Strategic Plan [CSP] is 'developed by the community'. This is an error. It is the Council's strategic plan not the community's. Inspection of the current version indicates that BSC has not given priority to any community social infrastructure in this plan. Thus 'VPA investment consistent with the CSP objectives' would not achieve mitigation of 'some identified potential social impacts' as suggested by Regis, at RR p 16.

⁸ Tracey Prisk Workers, visitors push demand for Blayney short-term rental market, realestate View, 20 September 2022: <https://www.realestateview.com.au/news/nsw/central-west-town-sees-dramatic-increase-in-short-term-rentals/> viewed 25 January 2023

Thus no document is available setting out what additional social infrastructure would be needed to accommodate the social impacts of the mining operation including the presence of a mine worker village in the LGA. In addition, the DPE Assessment Report notes, para 228, that the BSC has apparently decided to spend some of the VPA funds on existing roads affected by the mine:

228 the executed VPA with Council, which includes direct contributions to Council with those funds to be allocated towards community infrastructure projects, with in principle agreement with Council that the additional funds from the closure of Dungeon Road would be allocated to local roads around the site, including Walkom Road Village Road, Guyong Road and Vittoria Road;

Assessment

The social infrastructure costs to Blayney Shire Council and residents of some 300 non-local workers in a demountable village have not been estimated, the extent of these costs is therefore unclear as is whether adequate provision has been made to meet them. The funds provided to BSC for local roads appear to be to address access issues and road usage by mine vehicles (DAR p 86), including to provide a new road into the mine. These funds are therefore to achieve benefits for the mining operation rather than social infrastructure for the Blayney community.

Loss of Country

The project will have a short extraction period of 11 years, but its consequences will endure in perpetuity. The proponent states that the mining site will be remediated but remediation is not restoration and does not include the void, ES p 6. The void will be a permanent scar on the landscape.

It is also evident that this project proposes a short extraction period which will interrupt, disturb and in some cases destroy evidence and the locus of millennia of traditional ownership and cultural practice by Indigenous land owners. There is no proposal to remediate the cultural environment. Indeed, this will not be possible.

The SIA (EIS Appendix T) states that the project site contains Aboriginal cultural and heritage items of 'low scientific significance' (SIA p112) apparently relying on assessment by Landskape for Regis (Appendix O & P of the EIS). I note that this assessment is contested in an expert archaeological opinion by Doug Williams.

However, Country is not the same as a number of sites or items. Country is a tangible whole, and access to Country is a tangible process, sometimes enshrined in Native Title rights. As DPE notes, DAR p vii, 'the whole project area ... is of cultural significance to the Aboriginal community.'

In response to Aboriginal concerns about loss of Country, the Regis Response says, at RR pp 25-26, the SIMP will include:

- 'Incorporation of Indigenous thinking and connection with Country into project delivery'
- An Indigenous Participation Plan
- 'Opportunities for local Aboriginal and people [sic] to provide services for business as usual on-country activities;
- Incorporation of cultural heritage training as a standard part of onboarding of new employees;
- Incorporation of Indigenous knowledge into site activities, e.g. rehabilitation and mine closure planning, and
- Opportunities for enhancing the intergenerational transfer of Indigenous knowledge'

Assessment

Each of these items has the standing of an assurance rather than a documented commitment. Because each item is expressed in vague terms, it will be impossible to say whether or not each item has been implemented, much less implemented adequately, as no standards or criteria for efficacy have been set. For example, what would constitute an effective cultural heritage training program for mine workers whose job it will be to dig up the traditional landscape? How long would this training take? What issues would it cover and how often would it occur? Or as another example, how specifically would intergenerational transfer of Indigenous knowledge be managed? Or, what is intended regarding Indigenous participation and how will any efforts proposed in a plan be assessed?

It is not reasonable to expect the Aboriginal community to be satisfied with vague assurances. In my professional opinion such assurances are inadequate when measured against the value placed by the Aboriginal community on connection to Country and Indigenous heritage.

DPE says, DAR p vii & 431, the impacts on Aboriginal cultural heritage 'would be acceptable in accordance with NSW government policy'. It is unclear to which

NSW government policy this statement refers and as a result this statement is unsubstantiated. It also raises the question acceptable to whom?

A striking aspect of this proposed project is its disproportionate impact on the local Aboriginal community. The extraction operation will last a mere eleven years, the loss of Country will be permanent.

The void

There is no consideration of the long term social impacts of the void or the pit lake it would contain [DAR para 302]. For example, the void would be close to a future Kings Plains village and while it might be fenced, fences have a short life in comparison with the permanent presence of the pit lake.

The SIMP

A SIMP is a plan to manage social impacts. A SIMP may be appropriate if there are aspects of adverse social impacts which are amenable to careful management but most social impacts require policy decisions and funding as precursors to mitigation implementation and management. These critical precursors are missing from the SIMP requirements.

Regis proposes, RR p 31-32, the SIMP for the McPhillamy's Gold Project is an umbrella title for a series of documents. These are named as

Four frameworks:

- 1 Stakeholder engagement framework,
- 2 Near neighbours impact management framework,
- 3 Workforce accommodation and workforce management framework, and
- 4 Monitoring and reporting framework

Ten plans or sub-plans targeting the following themes:

- 5 Primary Assessment Area Impact Management,
- 6 Kings Plain Locality,
- 7 Workforce accommodation management,
- 8 Workforce recruitment and training,
- 9 Workforce management,
- 10 Local employment and supply, including
 - Indigenous participation,
 - Local business participation, and
 - Labour force training and skill development
- 11 Community liveability, health and well-being, including
 - Infrastructure and local service provision,

- 12 Community investment and share value,
- 13 Mine closure,
- 14 Stakeholder engagement,

Other inclusions:

- 15 An up to date social baseline for the local and regional areas including longitudinal trend analysis,
- 16 Complaints and grievances procedure.

The difference between a framework, a plan, a sub-plan, a profile and a procedure is unclear. However, Regis proposes that the SIMP be made up of these 16 documents.

This description of the SIMP has some noticeable features.

- 1 Both Regis and DPE rely on the SIMP as the mitigation of first and last resort for many adverse social risks.

- 2 According to the DPE, DAR para 229, the SIMP is required to describe measures to manage and mitigate negative, and cumulative, social impacts. However, it is clear from the documentation already submitted (as assessed at Table 2) that Regis is unable to identify tangible, deliverable and durably effective mitigations for the adverse social impacts identified and relies heavily on statements of good intention.
In my opinion, it is unlikely that, after approval, the proponent will be able to identify suitable mitigations which they could not envisage beforehand. There does not seem to be a reason consistent with the proponent's interest in securing approval, to omit mention of suitable mitigations at this stage of the DA process.

- 3 The proponent will be unable to implement initiatives beyond its responsibilities. As a result on a number of critical issues the SIMP will be able to do no more than require the proponent to encourage or advocate for an outcome. This is not the same as having sufficient agency to be effective. For example, the mining company is not a housing or health services provider. Thus there is no evidence or reasonable ground for supposing that the absence of tangible, deliverable and durably effective mitigations in the SIA documents will be made good post-hoc in a SIMP.

- 4 Neither the Regis Response nor the Recommended Conditions of Consent describe how a SIMP with so many component parts and requiring such

diversity of skills will be prepared. The requirements, set out at DAR, para 229, say that the SIMP must be prepared by a suitably qualified and experienced person(s), however this is simplistic. It appears a some 17 specialists are needed to address the themes, process and frameworks listed. There is no suggestion in the conditions of consent as to how the work of many specialists would be coordinated at either drafting or implementation stages.

- 5 The Recommended Conditions of Consent also require that the SIMP is developed in consultation with BSC, the Community Consultative Committee and affected stakeholders 'to the greatest extent practicable'. However, consultation is not the same as responsibility for preparation of the plan or agreement with its contents, and the suitably qualified persons needed to prepare the SIMP will be paid, and thus supervised, by the proponent.

Thus, it appears that no local stakeholders will have oversight of the quality, utility, efficacy or suitability of the documents or their strategies. While the proponent would be required to implement the plan, the conditions of consent do not provide any penalty or consequence for an inadequate implementation or effectiveness.

Weak and ineffectual conditions of consent

In its Assessment Report, the DPE regards many of the adverse social impacts of this project as 'inevitable' and their occurrence as outweighed by the benefits of the project. The DPE says:

'the project is in the public interest and is approvable, subject to the strict conditions of consent' DAR p ix

In my opinion, and as demonstrated above, there are no strict conditions of consent proposed to be applied to the social impacts of this project. In fact the reverse is the case.

- 1 The proposed mitigations to address the social impacts of out-migration from Kings Plains fail to meet basic mitigation standards of tangibility and durable effectiveness (see footnote 2). They conceal aspects of social costs to landholders which have not been accounted for including, health and amenity costs and costs associated with loss of social connectedness and sense of place. The conditions of consent do not remedy this failure.

- 2 The proposed demountable village is not a mitigation deliverable by the proponent, its delivery has been assumed to be a social benefit to the region and the risk of multiple social costs have been omitted. The conditions of consent do not remedy these errors.
- 3 The social costs to Blayney Shire Council and Blayney residents of the presence of some 300 non-local workers in a demountable village have not been estimated and no provision has been made for them to be met by the proponent, notwithstanding that they will arise as a result of the proposed project. The conditions of consent do not make good these omissions.
- 4 Assessment of the burden that additional mine workers would impose on social infrastructure in Blayney LGA has not been included in the documents prepared so far, is not included in the list of documents to comprise the SIMP⁹ and is not required in the Recommended Conditions of Consent.
- 5 There is no condition of consent requiring proportionate redress for loss of Country.
- 6 Implementation, monitoring and review of the measures included in the SIMP are post hoc and the responsibility of the proponent. There are no penalties for non- or poor-compliance or avoidable exceedances.

In my opinion there are no strict conditions of consent proposed to apply to the social impacts of this project.

In my opinion, the current conditions contained in the proposed SIMP are weak and likely to be ineffectual. By appearing to address social costs such as workforce accommodation or social infrastructure, the conditions allow the proponent to avoid addressing relevant social costs and requirements arising from the project that would reduce the project's profitability. Instead, these likely social costs will be borne by the local community. This is neither equitable nor appropriate.

⁹ The SIMP is proposed to include an Infrastructure and Local Services Plan. This could mean utilities for example, and does not explicitly include social infrastructure such as health services, education and child care services.

Summary

While approval of this gold mine would result in up to \$65 million in royalties paid to the NSW government, the residents of Blayney Shire and Kings Plains would experience many significant adverse social impacts from the presence of the mine, its operation and its aftermath.

For the reasons set out in this report, these adverse impacts would not be mitigated by any of the proposed mitigating actions and would be borne locally by residents of Kings Plains and other local communities in Blayney Shire.

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Qualifications

PhD, School of Urban and Regional Planning, *The University of Sydney*, 2004 Thesis title:

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Master of Arts (Sociology) *Columbia University, New York*, 1969

Bachelor of Arts, Honours (Sociology), *London School of Economics & Political Science*, 1966

Recent publications

Ziller Alison and Tony Brown 2022, Using Cumulative Impact Assessment as a smokescreen in NSW alcohol harm reduction laws. A commentary, *J Law and Medicine*

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