



## **STRONG AND SUSTAINABLE RESOURCE COMMUNITIES BILL 2016**

### **SUBMISSION TO THE PARLIAMENTARY COMMITTEE ON INFRASTRUCTURE, PLANNING AND NATURAL RESOURCES**

**Local Government Association of Queensland Ltd  
12 December 2016**

## Executive Summary

The Local Government Association of Queensland (LGAQ) appreciates the opportunity to make a submission to the Parliamentary Committee on Infrastructure, Planning and Natural Resources on the Strong and Sustainable Resource Communities Bill 2016 (the SSRC Bill). Local governments in resource regions recognise that the resources sector is a substantial contributor to Queensland's economy, with a vital role in generating regional employment and business opportunities.

The rapid expansion of the resources sector has highlighted the need to reform the way we manage the impacts of the resources sector on local communities, both to better manage the costs of resource activities on communities, as well as better realise the opportunities for regional Queensland that these projects bring.

### Transforming the way we manage the impacts of resources projects on people

The LGAQ believes that the introduction of the SSRC Policy Framework and legislation presents an unmatched opportunity to transform the way Queensland manages the social impacts of the resources sector on regional communities. However, to realise this opportunity, the SSRC Policy Framework and legislation must be repositioned so that it provides the basis for a systematic approach to assessing and managing the impacts and opportunities of the resources sector for regional Queensland.

To begin with, the SSRC Policy Framework needs to be strengthened by including an objective and a set of operating principles that can provide guidance on how Queensland intends to manage social impacts into the future. In particular, **Queensland must adopt an adaptive management approach to managing social impacts**, one that sees resource project proponents manage the impacts of their activities on communities throughout the life of their projects and not with fixed approaches decided at the time of approval.

The LGAQ believes a resource project's social licence to operate must include having an approved plan for managing the impacts of its activities on people. In the case of the environment, no mining project can operate unless the project proponent holds a valid Environmental Authority. It is vital that a similar approach is taken to managing the impacts of resource projects on people by making it mandatory for both current and future resource projects to undertake a Social Impact Assessment (SIA) and have in place an approved Social Impact Management Plan (SIMP). To achieve this objective, the LGAQ calls on the State Government to work with local government, the resources sector and stakeholders to develop a Transition Plan that ensures that all resource projects undertake an SIA and have in place a SIMP by 31 December 2020.

### Local government as a partner-in-government

As part of introducing a systematic approach to managing the social impacts of the resources sector, it is vital that local government be recognised as more than a stakeholder and is instead acknowledged as a 'partner-in-government'. **Significant improvements can be made in managing the impacts of resources projects on communities if information regarding a project is provided early to local councils and agreement is reached on managing these impacts *before a project commences*.**

While both the SSRC Policy Framework and the SSRC Bill make welcome progress in this area, more needs to be done to achieve a genuine partnership, including:

- Requiring greater and more meaningful consultation with local government than that provided for in the SSRC Bill.
- Requiring an assessment of the impacts of a resource project on local government assets, services and land-use planning schemes.
- Requiring that a project proponent to negotiate an Infrastructure Agreement (IA) with local government before a project commences
- Requiring that a project proponent fund the reasonable costs of local government participation in SIA and SIMP processes, including the negotiation of an IA.

## Ensuring fair and reasonable access to employment and procurement opportunities

As indicated by the object of the SSRC Bill, the purpose of the prohibition of a 100% FIFO workforce is to help ensure that the economic and social benefits of resource projects flow to resource communities, including through employment. So that the intent of the prohibition on a 100% FIFO workforce is realised, it should be mandatory for future resource projects to have an enforceable condition relating to the positive actions that a resource project must take that will facilitate the employment of regional workers. Moreover, the prohibition on a 100% FIFO workforce should be for the life of a project, with the onus on the project proponent to demonstrate that it needs an exemption to this prohibition for the construction and/or decommissioning phases of a project.

The SSRC Bill is constructed such that, to comply with the prohibition on a 100% FIFO workforce, a resource project must employ people from a nearby regional community. Due to the nature of the distances in regional areas, the LGAQ has suggested a 150 km radius for determining a nearby regional community rather than the 100 km put forward in the SSRC Bill. However, the LGAQ is prepared to consider an alternative approach that requires the Coordinator-General to set a regional employment area in accordance with a statutory guideline, with this guideline including a requirement for a comprehensive analysis of the labour market. Given the sensitivity and vital importance of this decision to local communities, this approach should only be implemented if there is a statutory requirement for the Coordinator-General to consult with local government on the appropriate area for defining a nearby regional community.

In relation to the prohibition on discriminating against local workers, the scope of the proposed measures is overly restrictive, as they only apply to projects that have undertaken an EIS process. Many resource projects commenced before the EIS process was brought into effect and the requirement not to discriminate against local workers in their recruitment processes should apply equally to all resource projects, irrespective of when a project commenced. Moreover, the requirement not to discriminate against local workers should apply to all elements of workforce arrangements and not just recruitment.

In introducing measures to prevent discrimination against local workers, it is important that these measures lead to closer cooperation between resource companies and local communities in ensuring fair and reasonable access to employment opportunities for residents. As such, the State Government should consult with local government, the resources sector and other stakeholders to establish effective monitoring arrangements for these new provisions.

The SSRC Policy Framework includes welcome commitments to improving access by local business to resource project procurement contracts. However, it is important that policies related to procurement programs not only encompass removing impediments and facilitating access to business opportunities, but also help build the capacity of local businesses to identify procurement opportunities and meet resource company requirements. The LGAQ believes that there is a need for the State Government to work with local government and the resource sector to undertake a detailed review of procurement processes used by resource projects and develop policies and programs needed to improve access by local contractors to resource project procurement opportunities.

## Future consultation

The LGAQ believes that consultation processes could be improved such that stakeholders have a greater opportunity to work together to identify solutions for better managing the social impacts of resource projects on communities. To improve outcomes for both local communities and the resources sector, the LGAQ believes that the Government should establish a working group of senior officers from the State Government and representatives from local government, the resources sector and other peak bodies that can work together on improving the management of the social impacts of resources projects, including implementing the measures proposed in the SSRC Policy Framework and the SSRC legislation.

## What the LGAQ seeks

### Getting the policy framework right

- 1) That the SSRC Policy Framework:
  - a) Has the objective of '*building strong, sustainable resource communities*'.
  - b) Includes the operating principles of:
    - i) Local government is a 'partner-in-government' in managing the social impacts of resource projects.
    - ii) Resource project proponents have an on-going responsibility to manage the social impacts of their activities.
    - iii) An adaptive management approach is used by government and the resources sector to manage social impacts.
    - iv) Members of local and regional communities have fair and reasonable access to employment and business opportunities associated with resource projects.
    - v) State and local governments, and the resources sector, work collaboratively to invest in enhancing the liveability and financial sustainability of resource communities.
    - vi) A whole-of-government approach to managing the social impacts of resource projects.

### Local government as partner-in-government

- 2) That the SSRC Bill includes the following:
  - a) A requirement that a project proponent must not only consult with local government(s) on its SIA, but also its SIMP and any revisions to the SIMP. This requirement is in addition to the general requirement to consult with stakeholders.
  - b) The requirement to consult with local government includes both the local government for the local government area in which a project is located, as well as local governments for local government areas impacted by project operations.
  - c) A statutory guideline on consultation and negotiation between local government and resource companies.
  - d) A requirement that the Coordinator-General must consult with local government on the SIA terms of reference, SIA, SIMP, social impact management conditions and any changes to project conditions and changes to a SIMP. This requirement is in addition to the general requirement to consult with stakeholders.
  - e) A requirement for an SIA to include an assessment of the impacts of resource project activities on local government assets, services and land-use planning scheme(s) [to be included in section 9(3)].
  - f) A requirement for an IA to be negotiated between the project proponent and relevant local government(s) to avoid and/or mitigate the adverse impacts of a resource project on local government assets, services and land-use planning scheme(s) and provide compensation for any unavoidable impacts. This agreement is to be in place prior to the commencement of a project, unless the council(s) agrees otherwise.
  - g) A requirement for resource companies to fund the reasonable costs of local government participation in SIA/SIMP processes and the negotiation of an IA.
  - h) An alternative dispute resolution process that provides an independent, credible and inexpensive mechanism to resolve disagreements in relation to compensation and other matters to be include in an IA.

### Implementing an adaptive management approach

- 3) That the SSRC Bill includes:
  - a) A mandatory condition for resource projects falling within the scope of the legislation to have a SIMP approved by the Minister.

- b) A requirement for a resource project to regularly review and update its SIMP, including when there is a significant change to project operations and, for single-lease projects, at renewal of the tenure.
  - c) The ability for a local government (and a project proponent) to apply to the Minister to amend a SIMP due to a significant change in circumstances.
  - d) Provision for a statutory SIMP guideline.
  - e) The ability for the Minister to declare a cumulative impact area.
  - f) A requirement for the Minister to report regularly to Parliament on the social impacts of resource projects in declared cumulative impact areas, as well as actions taken by the State Government, local governments and resource companies to manage these impacts.
  - g) A general power for the Minister to require companies to provide data relevant to the assessment and management of social impacts.
- 4) Further consultation be undertaken with local government, the resource sector and stakeholders on the terms of reference and operation of the proposed regional Cross-Agency Reference groups (CARs).
  - 5) The Government commits to adequate resourcing for the proposed CARs, including secretariat support and operating budget.

### Managing the social impacts of existing projects

- 6) That the SSRC Bill includes:
  - a) The ability for the Minister to require a project that has not been through an EIS process to undertake a SIA and have an approved SIMP. The criteria for the inclusion of a project should be based on the actual and/or potential impact of the project on local and regional communities.
  - b) For projects that have not undertaken an EIS process, the ability for local councils to apply to the Minister for a project to undertake a SIA and have an approved SIMP.
  - c) That activities related to a resource project but which are conducted 'off-site' are included in the scope of the SIA/SIMP process.
- 7) That the Government consults with local government, the resources sector and stakeholders and develop a Transition Plan that ensures resource projects undertake an SIA and have in place a SIMP by 31 December 2020. This process should encompass a cumulative impact assessment of each of the main resource basins by the CARs.

### Ensuring fair and reasonable access to employment and business opportunities

- 8) That the SSRC Bill includes:
  - a) A definition of 'regional employment area', along with definitions for 'resident regional worker' and 'non-resident worker'.
  - b) A requirement that the Coordinator-General determine the regional employment area for a project based on a statutory guideline. This statutory guideline requires an analysis of the labour market.
  - c) A requirement for the Coordinator-General to consult with local government in determining the regional employment area for a project before this decision is made.
  - d) A requirement for the Coordinator-General to set a social impact management condition(s) regarding the positive actions that a resource project must take to employ regional workers. Meeting the requirements of this condition(s) must ensure that a project meets the prohibition on a 100% FIFO workforce and should be structured in such a way that it can be regularly reviewed and updated.
  - e) The section 6(2) prohibition on a 100% FIFO workforce is for the life of a project, with a project proponent able to apply to the Coordinator-General for an exemption to this prohibition for the construction and/or decommissioning phases of a project.
  - f) The prohibition on 100% FIFO workforce arrangements applies to a project that has not commenced operations at the time the SSRC Bill is passed.

- g) Where greater than two years has elapsed between the completion of an EIS and the commencement of the project, the SIA must be reviewed and a revised SIMP approved.
  - h) Anti-discrimination provisions extend to all mining projects and not just those that have undertaken an EIS process.
  - i) Anti-discrimination provisions extend to all workforce arrangements and not just recruitment.
- 9) An assurance that the Carmichael Project will be prohibited from being a 100 per cent FIFO project.
  - 10) The State Government works with local government and the resource sector to undertake a detailed review of procurement processes used by resource projects and develop policies and programs needed to improve access by local contractors to resource project procurement opportunities.
  - 11) SIMP guidelines ensure that the Government is able to monitor and enforce local procurement policies proposed under the SSRC Policy Framework.

#### Future Consultation

- 12) That the Government establish a working group of senior officers from the State Government and representatives from local government, the resources sector and other peak bodies to work together on implementing the measures proposed in the SSRC Policy Framework and SSRC legislation.

## 1. Introduction

The Local Government Association of Queensland (LGAQ) is the peak body for local government in Queensland. It is a not-for-profit association setup solely to serve councils and their individual needs.

The LGAQ has been advising, supporting and representing local councils since 1896, allowing them to improve their operations and strengthen relationships with their communities. The LGAQ does this by connecting councils to people and places that count; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and delivering them the means to achieve community, professional and political excellence.

Local governments in resource communities support the exploration and development of Queensland's mineral and energy resources. These councils understand that the resources sector is a substantial contributor to Queensland's economy, with an important role to play in generating local employment and business opportunities.

However, the recent, rapid expansion of the resources sector in Queensland has highlighted significant deficiencies in Queensland's resource project approval processes, the conditioning of resource projects and the monitoring and management of the impacts of resource project activities. The existing approach to managing the impacts of resource projects has largely failed to adequately anticipate, monitor and manage impacts on local communities, including impacts on local council assets, service delivery capability and land-use planning schemes. This is why the LGAQ greatly appreciates the Government's commitment to developing the Strong and Sustainable Resource Communities (SSRC) policy and related legislation. A comprehensive and innovative SSRC framework is vital if we are to better manage the social impacts of the resources sector into the future.

In developing this submission, as well as consulting with members of the LGAQ's Policy Executive, the LGAQ has consulted with the following councils:

- Central Highlands Regional Council
- Charters Towers Regional Council
- Cloncurry Shire Council
- Gladstone Regional Council.
- Isaac Regional Council
- Mackay Regional Council
- Maranoa Regional Council
- Mt Isa City Council
- Western Downs Regional Council
- Whitsunday Regional Council

## 2. A opportunity for transformational change

The LGAQ welcomes the opportunity to make a submission to the Parliamentary Committee on Infrastructure, Planning and Natural Resources on the Strong and Sustainable Resource Communities Bill 2016 (the SSRC Bill).

The LGAQ acknowledges that the SSRC Bill – and the SSRC Policy Framework tabled by the Government when it introduced the Bill – are primarily aimed at implementing the recommendations arising from an earlier Parliamentary inquiry into fly-in, fly-out (FIFO) work practices. As such, the proposals put forward in the SSRC package contain a mix of measures relating to managing social impacts and the more specific issue of managing FIFO workforce arrangements.

While the LGAQ welcomes and broadly supports the main SSRC measures proposed, we also believe this legislation presents the opportunity for **transformational change** in the way in which Queensland manages the social impacts of the resources sector. As such our submission not only addresses the specific measures proposed in the SSRC Bill, it also looks more broadly at the issues surrounding social

impacts affecting resource communities and proposes measures to manage these impacts in a systematic fashion.

It is unfortunate and disheartening that when local government argues for more robust management of social impacts, this is dismissed by some in the resources sector – and in Parliament – as ‘more red tape’. However, it is abundantly clear that social conflict costs. It costs resource projects time and money; it costs the State and local governments financially and politically; but most importantly, it costs communities. Communities are being excluded from the employment and business opportunities that can come from resource projects, while at the same time being asked to absorb the costs of resource projects in the form of inadequate services, degraded assets and, in some cases, higher rates, all of which leads to an overall deterioration in their quality of life. All of these costs are causing communities increasing levels of distress and anger when their legitimate concerns and needs are not adequately addressed by the State Government and the resources sector and their local council is stretched in its ability to help.

The core of the LGAQ’s submission is that Queensland can reduce and better manage social conflicts and costs arising from resource projects by transforming the way we manage the social impacts arising from these projects. To this end, the LGAQ is proposing that the Government uses the opportunity presented by the SSRC Policy Framework and Bill to put in place an **adaptive social impact management system**. The elements of the system being proposed by the LGAQ are outlined in the diagram at **Attachment 1** and are explained in detail below. The elements of this approach are also LGAQ policy, as indicated in the extract of the *LGAQ Policy Statement 2016* that is provided at **Attachment 2**.

## 2.1. Making people a part of a resource project’s social licence

There is considerable discussion within the Australian community regarding the need for the resources sector to have a ‘social licence to operate’. While there can be debate over what this term means, the LGAQ believes that it relates to the practical measures taken by resource companies and governments to manage the impacts and realise the opportunities of resource projects. Feedback from one council suggests that this concept should also include the community’s perception as to whether or not a project proponent is behaving as a good corporate citizen, acting reasonably and contributing fairly to the community in which it operates.

Currently, as part of a project’s social licence to operate, a project proponent must hold an environmental authority to manage environmental impacts (under the *Environmental Protection Act 1994*) and, under resources legislation (such as the *Mineral Resources Act 1989*), an approved development plan for the commercial production of the resource. There is, however, no uniform requirement for a project proponent to hold a commensurate ‘authority’ or ‘approved plan’ in relation to managing social impacts.

In essence, while Queensland has in place measures to protect the environment from the impacts of resource projects, there are no uniform requirements that protect people. As is made clear in the dark blue section of the adaptive social impact management system outlined in **Attachment 1**, an approved Social Impact Management Plan (SIMP) – which is aimed at managing resource project impacts on people – must form a core component of a resource project’s social licence to operate.

To support the proposed adaptive social impact management system, the LGAQ argues that the SSRC Policy Framework and legislation should operate on the following principles:

1. Local government is a ‘partner-in-government’ in managing social impacts.
2. Resource companies have an on-going responsibility to manage the social impacts of their activities.
3. An ‘adaptive management’ approach underpins the management of social impacts, including cumulative impacts.
4. Members of local and regional communities have fair and reasonable access to employment and business opportunities associated with resource projects.



5. Local and State Governments, and the resources sector, work collaboratively to invest in enhancing the liveability and financial sustainability of resource communities.
6. There is a 'whole-of-government' approach to managing social impacts.

To give effect to these proposed operating principles, the LGAQ seeks revisions and additions to the SSRC Policy Framework and SSRC Bill in the following areas:

- Local government as a 'partner-in-government'
- Implementing an adaptive management approach
- The scope of the SSRC Bill
- Ensuring fair and reasonable access to employment and business opportunities.

### 3. Getting the policy framework right

At the same time as introducing the SSRC Bill, the Government tabled its SSRC Policy Framework. The LGAQ believes that this Policy Framework is not sufficiently robust to manage the current and future social impacts on resources communities. As the legislation should reflect the design of the Policy Framework, the LGAQ offers the following comments on the Policy Framework in order to put into context our comments on the SSRC Bill.

To begin with, the SSRC Policy Framework should have a clearly stated objective, as well as a set of operating principles to underpin proposed policy and legislative measures. To this end, the LGAQ suggests that the SSRC Policy Framework be given the straightforward objective of *'building strong, sustainable resource communities'*. This ensures that the focus of the framework is on resource communities, with an emphasis on both the need to manage the adverse impacts of resource projects, as well as helping resource communities make the most of the opportunities that resource projects can bring.

The LGAQ also believes that the SSRC Policy Framework needs to outline operating principles for the policy, with legislative measures linked to these principles. The LGAQ suggests the following six principles underpin Queensland's adaptive social impact management system.

#### 3.1. Local Government as a partner-in-government

It is LGAQ policy that local government, as an equal government partner in resource communities planning, requires early and comprehensive engagement in resource tenure approval processes to allow sufficient time to plan for impacts associated with the commencement or upgrading of a resource project. Accordingly, for the LGAQ the first principle of the SSRC Framework should be that, consistent with the agreement the LGAQ has with the Queensland Government, local government is treated a 'partner-in-government' in managing social impacts of resource projects and not 'just another stakeholder'.

Local councils have significant legal, financial and moral responsibilities for sustaining their communities, including: providing services (such as water and sewerage); building and maintaining infrastructure (such as roads); and making land-use planning decisions (such as the location of housing developments). In smaller communities, local councils are also increasingly being called upon to provide social and community services traditionally provided by the Federal and State Governments, including in the areas of childcare, education and health. At the same time as providing the infrastructure and services that communities need, councils must also remain financially sustainable and have a responsible budget strategy.

Resource projects can make substantial demands on local council assets and services, as well as significantly affect land-use in and around towns. Where these costs are not covered by the resource project proponent, they fall onto local residents in the form of higher rates, degraded assets and reduced services. Such cost-shifting is manifestly unfair.

Most importantly, as the democratically elected representatives of their community, a local council is the 'voice' of its community and should be recognised as such in both social impact management policy

and legislation. Community members want and expect their local council to be able to influence the actions of resource companies and the State Government. While interested stakeholders ought to have the opportunity to contribute their views, **local governments should be recognised by both the State Government and the resources sector as having a qualitatively different – and vital – role in the social impact assessment and management process.**

Local councils have substantial and valuable local knowledge and can assist the State Government and project proponents in identifying potential problems and opportunities arising from resource projects; more than that, local councils are well placed to help identify cost-effective solutions to avoiding and mitigating potential adverse impacts, as well as providing advice on how best to assist community members and businesses to access the opportunities presented by these projects.

While the State Government ultimately has the responsibility for setting project conditions, local councils should be integrally involved in the Social Impact Assessment (SIA) and Social Impact Management Plan (SIMP) processes for individual projects. In addition, local governments should also be able to fully participate in the assessment and management of the cumulative impacts of multiple resource projects operating in the same region.

The LGAQ welcomes the progress made in the SSRC Bill in implementing this principle; however, as our submission will argue, there is more work to be done to achieve a proper partnership with local government in managing the social impacts of resource projects.

### 3.2. An on-going responsibility for resource companies

A second principle that should underpin the SSRC Framework is that resource companies have an on-going responsibility for managing the social impacts of their activities. Currently, Queensland has a 'front-end loaded' assessment process that attempts to examine (and foresee) all of the potential social impacts of a project and set conditions and impact management plans accordingly. Such an approach cannot realistically be expected to take account of the range and variability in the social and economic factors that may affect a project – and thereby impact local communities – over the life of a project, particularly given that resource projects can operate for decades. The inadequacy of a 'front-end loaded' approach to social impact assessment and management becomes even more evident when consideration is given to the unplanned for cumulative effects of the changing nature and number of projects operating in the same region at the same time.

Currently, there is variability as to whether a resource project has a SIMP and, if so, whether this plan lasts for only the first few years of a project or whether there is a requirement for a new plan to be put in place once the first plan expires. **The LGAQ believes that resource projects that impact on communities should be required to have in place a SIMP throughout the life of the project, with this plan regularly updated to reflect project operations and the project's socioeconomic operating environment.** The Government would not countenance having a mine operate without the project proponent holding a valid Environmental Authority throughout the life of a project; the Government should take a similar approach to social impacts and require resource project proponents to also have an approved SIMP.

### 3.3. Adopting an adaptive management approach

Related to the principle that companies have an on-going responsibility to manage the social impacts of their activities is a third principle: that an 'adaptive management' approach underpins the management of social impacts, in particular cumulative impacts. Resource project proponents have the ability to apply for changes to project conditions and development plans on the basis that there has been a significant change in project circumstances (for example, changes in commodity prices); however, there is no comparable ability to change project conditions and/or a SIMP when there are changes in the social impacts of a project, including the cumulative impacts of projects operating in a single region (for example, increased demands on infrastructure, such as roads, or increased demands on services, such as community health and emergency services).

In contrast to the current 'front-end' management approach used by Queensland to manage the social impacts of resource projects, the Department of Environment and Heritage Protection (EHP) uses an

adaptive management approach to manage the environmental impacts of resource project activities. EHP describes its adaptive management approach in the non-mining sector as follows<sup>1</sup>:

*The Queensland Government has an adaptive environmental management system in place for the regulation of activities such as petroleum, geothermal and greenhouse gas storage.*

*This system not only allows the government to monitor the industry and instigate change where required, it allows for best practice environmental management to be implemented as technologies develop over time.*

*In practice, environmental licences issued to operators can be changed to take into account new research, monitoring or modelling which suggests the potential for unintended or unexpected impacts on the environment.*

*The adaptive management framework process applies to both current and future projects and will ensure the government is able to respond to what happens on the ground and protect the environment.*

*This framework is in addition to the environmental assessments that are undertaken before high risk activities are approved under Queensland environmental law.*

The LGAQ believes that it is essential that a similar adaptive management approach is adopted in managing the social impacts of the resources sector. As proposed by the LGAQ in **Attachment 1**, this would see the Government implement an 'adaptive social impact management system' that:

- Requires and enables the government to monitor the social impacts of resource projects and the sector as a whole and instigate change where this is required.
- Ensures that a SIMP can be updated to take into account new research, monitoring or modelling which suggests the potential for unintended or unexpected social impacts and which facilitates the adoption of best management practices for managing these impacts.
- Applies to both current and future projects and ensures that the government is able to respond to what is happening 'on the ground' in local communities.
- Is in addition to the assessments that are undertaken before mining and petroleum projects are approved.
- Is capable of addressing both the impacts of a specific resource project, as well as the cumulative impacts of a number of resource projects operating in the same region.

### 3.4. Fair and reasonable access to employment and business opportunities

The LGAQ believes that a fundamental principle of the SSRC Framework must be that members of local and regional communities have fair and reasonable access to employment and business opportunities associated with resource projects. The LGAQ very much welcomes the proposal by the Queensland Government to prohibit 100% FIFO workforces, as well as the Government's proposal to prohibit resource companies disadvantaging local residents in relation to securing jobs with resource projects. These measures are of critical importance to resource communities, as the ability to find employment with a resource project is the lifeblood of these communities.

For similar reasons, the LGAQ also welcomes the Government's statement under section 8 of the SSRC Policy Framework that "procurement programs should provide full and fair opportunity for competitive local businesses", including adopting payment terms that provide for a regular cash flow (a statement which acknowledges that a small business cannot support 90 day payment terms). Experience has demonstrated, however, that policies related to procurement programs need to not only encompass removing impediments and facilitating access to business opportunities, but must also include building the capacity of local businesses to identify procurement opportunities and meet resource company requirements.

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<sup>1</sup> <https://www.ehp.qld.gov.au/management/non-mining/adaptive-management.html>, accessed 28 November 2016

Effective measures that ensure fair and reasonable access to employment and business opportunities arising from resource projects is essential to maximising the economic benefits of these projects for local communities and to maintaining community support for these projects.

### 3.5. A collaborative approach to enhancing community liveability and sustainability

The LGAQ suggests that another operating principle of the SSRC Framework is that local and State governments, and the resources sector, work collaboratively to invest in enhancing the liveability – and financial sustainability – of resource communities. There are many different definitions of ‘liveability’; in essence it relates to the quality of life in a community arising from the combined effects of a range of factors including: the built and natural environments; economic prosperity; social stability (for example, a stable family life); social equity (including access to community health services and education); and the opportunity to participate in cultural and recreational activities and events. As each community will have different needs and ideas about what ‘liveability’ means to them, it is essential that State Government and resource project investments in local infrastructure and services reflect community priorities and not be based on a ‘cookie cutter’ approach.

As well as working to maintain and enhance the liveability of their community, it is essential that local councils are able to operate on a financially sustainable basis. The LGAQ acknowledges that many resource companies have programs in place that support community groups and these programs can contribute to improving the quality of life in resource communities. At the same time, the State Government funds programs such as Building Our Regions (BOR) that support local councils in providing infrastructure for their communities. However, it is important that company community programs do not inadvertently create dependencies on company funding (which local government is then expected to cover when these programs cease) and that infrastructure investments meet the long-term needs of a local community (which is difficult when funding programs operate on short-term, competitive funding cycles).

The LGAQ believes that better outcomes could be achieved if there was a more collaborative approach between the State and local governments, as well as resource companies, in investing in programs and infrastructure aimed at enhancing the liveability and financial sustainability of regional communities. At the same time, the liveability and financial sustainability of communities could be better supported if the scope of State Government funding programs was widened to not only support capital expenditure, but also infrastructure maintenance and operating costs, as well as council capacity and capability building (as occurs, for example, through the Transport Infrastructure Development Scheme).

### 3.6. A whole-of government approach to managing social impacts

Finally, the LGAQ believes that the SSRC Framework should have a ‘whole-of-government’ approach to managing social impacts. This would not only include close cooperation between the State Government and local governments, but also a more integrated approach to managing social impacts across State Government departments. For example, managing social impacts includes managing infrastructure such as roads and housing, as well as community services such as health, education and emergency services. In this context, State Government planning needs to be completed prior to a project commencing.

To give one example: currently there is insufficient consideration given to the need for State Government funding for emergency and essential services to support non-resident workers in resource communities. However, if the State Government approves large scale projects with significant non-resident worker populations, the State Government needs to also provide funding for the emergency and other government services needed to support them. The alternative is that the local community carries the cost burden or else suffers from having inadequate services. As these are complex issues, they require a whole-of-government approach to solving them.

The LGAQ also believes that, for a ‘whole-of-government’ approach to be adopted, the SSRC Policy Framework needs to incorporate the findings and government response to the Independent Review of the GasFields Commission, as well as related reforms arising from the Innovative Tenure Reform Framework process (for example, clarifying consultation processes with local government on relevant infrastructure applications, such as pipelines). The LGAQ has made submissions to both reviews and copies of these submissions are provided at **Attachments 3 and 4**.

### 3.7. What the LGAQ seeks

In summary, the LGAQ seeks:

1) That the SSRC Policy Framework:

- a) Has the objective of '*building strong, sustainable resource communities*'.
- b) Includes the operating principles of:
  - i) Local government is a 'partner-in-government' in managing the social impacts of resource projects.
  - ii) Resource project proponents have an on-going responsibility to manage the social impacts of their activities.
  - iii) An adaptive management approach is used by government and the resources sector to manage social impacts.
  - iv) Members of local and regional communities have fair and reasonable access to employment and business opportunities associated with resource projects.
  - v) State and local governments, and the resources sector, work collaboratively to invest in enhancing the liveability and financial sustainability of resource communities.
  - vi) A whole-of-government approach to managing the social impacts of resource projects.

## 4. Local government as a 'partner-in-government'

As outlined above, the LGAQ believes that, consistent with the *Partners in Government Agreement* between the LGAQ and the Queensland Government, local government should be recognised in both policy and legislation as representing local communities in negotiations with respect to SIAs and SIMPs. While interested stakeholders must have the opportunity to contribute their views, it is local governments that are democratically elected to represent resource communities and that have legal, financial and moral responsibilities to provide infrastructure and services to these communities.

**For this reason, the LGAQ believes that there should be a legislative requirement for a resource company to consult with relevant local councils on its SIA and SIMP.** The LGAQ welcomes the section 9(5) requirement in the SSRC Bill that a project proponent consult with local government on its SIA. This is a reform that will substantially enhance the SIA process, leading to a better assessment of the impacts of a resource project on communities and improved management of these impacts. Feedback to the LGAQ from councils has emphasised that impacts on communities are far more easily managed when information is provided by project proponents early and, most importantly, *before project operations commence* and communities are already experiencing impacts from a project.

While the LGAQ welcomes the requirement for consultation with local government by the project proponent with local government, we believe that the section 9(5) requirement is too narrow in its formulation to effectively identify and address project impacts. The current wording of this provision refers only to consultation with the local government "*for the local government area in which the large resource project is situated*". However, in some instances, project operations can affect a number of local government areas and therefore a number of local governments. For example, workers may 'fly-in' to an airport located in a different local government area from the one in which a project is located, thereby affecting the airport (and roads) in a local government area that is different from the one in which the project is located. As another example, "*nearby regional communities*" – that is, communities within a 100 km radius from a mine – may be in a different local government area from the one in which the project is located and from which a project's workforce may be drawn. For this reason, the LGAQ asks that the legislation be reworded as follows:

*9(5) In preparing the social impact assessment...the owner or proponent must consult with the local government for the local government area in which the*

*large resource project is situated, as well as local governments for local government areas expected to be impacted by project operations.*

As well as requiring a project proponent to consult with local government, the LGAQ believes that the legislation should go further and also require the Coordinator-General to consult with relevant local councils on the following matters:

- the terms of reference for an SIA
- project conditions related to managing social impacts
- any changes to project conditions requested by a project proponent
- the SIMP for the project
- where there is a periodic review of a project SIMP, the revised and updated plan (this issue is discussed in detail in section 5.1 of this submission).

Furthermore, given the strain placed on council resources in participating in these consultation processes, resource companies should also be required to pay the reasonable costs of local council participation in SIA processes, the development of a SIMP and the negotiation of any compensation for the adverse effects of resource project activities on council assets and services.

Current arrangements are patchy in ensuring that local governments are compensated for the adverse effects of resource company activities on local government infrastructure (such as roads) and services (such as water and sewerage). Additionally, resource companies can sometimes locate and build infrastructure to the detriment of the amenity and functionality of current and planned community developments under a council's land-use planning scheme. While local government infrastructure and services are sometimes classified as "economic" issues, this is not the perspective of resource communities and nor is it the reality of where the impacts of resource projects fall: when the functionality of local government assets and services such as roads, water and waste management are compromised, it is people in local communities that pay, whether it is through rate rises or, more importantly, through an overall deterioration in their quality of life.

**The LGAQ is therefore strongly of the view that, as part of the SIA requirements, there should be a legislative requirement for a project proponent to assess the potential impacts of project activities on local government assets, services and land-use planning schemes.** Accordingly, section 9(3) of the SSRC Bill should be amended to include "*local government assets, services and land-use planning schemes*" as an additional requirement of an SIA. To complement this assessment, there should also be a legislative requirement for an Infrastructure Agreement (IA) to be agreed between the local council(s) and a project proponent that outlines measures to avoid and/or mitigate the adverse impacts of a resource project on local government assets and services and provides compensation for any costs associated with unavoidable impacts.

Feedback to the LGAQ from councils is that **one of the most powerful measures that could be taken to protect the interests of local communities is to require an Infrastructure Agreement to be in place before a project commences.** Once project approvals have been granted, local councils can feel powerless in their requests for resource companies to mitigate the negative impacts of their operations on council infrastructure, services and land-use planning schemes and to provide compensation for these impacts. Accordingly, there should be a statutory requirement for an IA to be in place prior to the commencement of a project, unless the council(s) agrees otherwise.

In our submission to the Independent Review of the Gasfields Commission Queensland, the LGAQ raised the need for a more robust and comprehensive framework for consulting with local governments, including negotiating an IA. A copy of this submission is provided at **Attachment 3**. The review report concluded that is an 'issue for consideration', stating that "*consideration be given to the proposal that a comprehensive framework for negotiating an agreement as proposed by the Local Government Association of Queensland between CSG companies and local councils to deal with any impact that the activities of CSG companies have on local council infrastructure and service delivery activities*".<sup>2</sup>

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<sup>2</sup> Scott, Robert P. 2016. *Independent review of the Gasfields Commission Queensland and associated matters*. State of Queensland, Department of State Development. p. 80.

While the conclusions of the review report focus on the managing the impacts of the gas sector, there is a similar need to manage the impacts on communities of mineral and coal projects.

The LGAQ believes that a more robust framework for managing the relationship between local councils and project proponents should include a statutory guideline that provides guidance to both resource companies and local government on best practice in negotiating and consulting on social impact management measures. This guideline should stress the importance of establishing good relations between parties, as well as general principles for negotiating an IA and the most effective methods for ensuring good communication between local government and a project proponent. Along with providing a benchmark to assess whether a project proponent has undertaken a proper consultation process with local government, this guideline could also:

- Manage local government and project proponent expectations regarding the level of consultation required for different elements of the social impact management process. The International Association for Public Participation (IAP2) 'Public Participation Spectrum' is one method for defining different levels of public participation in decision-making processes and could be used to help define the degree of local council participation in different decisions regarding the management of social impacts.<sup>3</sup>
- Outline the reasonable costs that should be reimbursed to councils in relation to local council participation in a SIA process, the development of a SIMP and the negotiation of an IA.
- Provide guidance on the components of an IA and, if considered beneficial, a template agreement.
- Provide for an alternative dispute resolution mechanism that provides an independent, credible and inexpensive mechanism to resolve disagreements regarding compensation and other matters to be included in an IA.

In concert, the measures proposed by the LGAQ would work as follows:

- Proposed legislative measures:
  - Make it clear that the Coordinator-General must consult with local government on resource project SIA terms of reference, project SIA, project SIMP and social impact management conditions, including revisions to these.
  - Make it clear that a resource company must consult with local government on its SIA and SIMP, including any revisions to the SIMP.
  - Ensure a comprehensive assessment of the effects of a resource project on local government assets, services and land-use planning scheme(s).
  - Where adverse impacts are unavoidable, ensure an IA is in place that mitigates these impacts and compensates local council(s) for the additional costs associated with unavoidable impacts before a project activities commence.
  - Ensure that resource companies are required to fund the reasonable costs of local government participation in SIA/SIMP processes and the negotiation of an IA.
- Proposed Statutory Consultation Guideline: to provide guidance to both resource companies and local government on best practice in negotiating and consulting on social impact management measures.
- Alternative dispute resolution: provide an independent and credible mechanism for resolving disputes and complaints that arise between resource companies and local government in consultation and negotiation processes.
- SIA/SIMP Guidelines: provide methodologies that assist resource companies and local governments to assess and manage the impact of resource activities on local government infrastructure and services, as well as any compensation payable.

The red section of the diagram at **Attachment 1** outlines how each of these proposed elements interact.

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<sup>3</sup>Refer to <https://www.iap2.org.au/About-Us/About-IAP2-Australasia-/Spectrum>. The Spectrum includes the following: inform, consult, involved, collaborate and empower.

The LGAQ believes that these measures would help propel a cultural change in the relationship between resource companies and local government that sees issues increasingly resolved at a local level, rather than referred to the State Government to referee. While the State Government would always retain ultimate responsibility for setting project conditions and approving a SIMP, the effectiveness of these measures could be substantially improved where there is a strong, collaborative and respectful relationship between a project proponent and the local council that represents the community in which a project operates.

#### 4.1. What the LGAQ seeks

**In summary, the LGAQ seeks:**

##### **2) That the SSRC Bill includes the following:**

- i) A requirement that a project proponent must not only consult with local government(s) on its SIA, but also its SIMP and any revisions to the SIMP. This requirement is in addition to the general requirement to consult with stakeholders.**
- j) The requirement to consult with local government includes both the local government for the local government area in which a project is located, as well as local governments for local government areas impacted by project operations.**
- k) A statutory guideline on consultation and negotiation between local government and resource companies.**
- l) A requirement that the Coordinator-General must consult with local government on the SIA terms of reference, SIA, SIMP, social impact management conditions and any changes to project conditions and changes to a SIMP. This requirement is in addition to the general requirement to consult with stakeholders.**
- m) A requirement for an SIA to include an assessment of the impacts of resource project activities on local government assets, services and land-use planning scheme(s) [to be included in section 9(3)].**
- n) A requirement for an IA to be negotiated between the project proponent and relevant local government(s) to avoid and/or mitigate the adverse impacts of a resource project on local government assets, services and land-use planning scheme(s) and provide compensation for any unavoidable impacts. This agreement is to be in place prior to the commencement of a project, unless the council(s) agrees otherwise.**
- o) A requirement for resource companies to fund the reasonable costs of local government participation in SIA/SIMP processes and the negotiation of an IA.**
- p) An alternative dispute resolution process that provides an independent, credible and inexpensive mechanism to resolve disagreements in relation to compensation and other matters to be include in an IA.**

## 5. Implementing an adaptive management approach

As previously indicated, the LGAQ believes that it is essential that an adaptive management approach is adopted in managing the social impacts of the resources sector, both in terms of the impacts of individual projects, as well as the cumulative impacts of projects operating in the same area.

### 5.1. Project impact management

As indicated by the dark blue section of the adaptive social impact management system diagram provided at **Attachment 1**, the LGAQ believes that for a project proponent's social licence to operate to be complete, a project proponent must hold the following:

1. A resource tenure
2. An Environmental Authority
3. An approved Development Plan
4. An approved SIMP.



Currently, section 9 of the SSRC Bill provides that a project must prepare an SIA; however, the SSRC Bill does not require a project to have in place an approved SIMP. While the LGAQ recognises that section 11 of the SSRC Bill enables the Coordinator-General to set enforceable conditions, **the LGAQ is strongly of the view that it should be a mandatory condition that projects that fall within the scope of the SSRC Bill have an approved SIMP.** This is similar to the requirement under resources legislation that mining and petroleum leases must have an approved Development Plan (refer, for example, to sections 157-160 of the *Petroleum and Gas (Production and Safety) Act 2004*).

In order to provide for an adaptive management approach to managing the social impacts of individual projects, a SIMP should be regularly reviewed and updated. The LGAQ notes that, under existing legislation, a lease holder is ordinarily required to submit a 'later' development plan at least every five years<sup>4</sup>. This includes in circumstances where there is a significant change in the operations of a project (for example, an expansion of project operations or closure of a mine) and upon renewal of a tenure. While the timeframe for reviewing and updating a SIMP should logically align with the lodgement of a project's initial and later development plans, the LGAQ notes that this may not be feasible in practice, as petroleum projects in particular can comprise multiple leases (which have different development plan timeframes), exploration authorities and infrastructure licences (and the latter two permits do not require the holders to have a development plan).<sup>5</sup> As such, the LGAQ proposes that the SSRC legislation should require:

1. That a resource project has an approved SIMP.
2. That the period of a SIMP is determined by the Minister, but that the period can be for no longer than five years.
3. That an updated SIMP must be submitted for approval:
  - a) Before the expiry of the current SIMP
  - b) When there is a significant change in project operations
  - c) In the case of single-lease projects, on renewal of the lease.
4. An updated SIMP to take effect at the expiry of the previous plan.

Noting that a significant change can occur in circumstances independently of the operations of a mine (for example, changes to employment levels, housing and road use), there should also be provision for local governments (and resource project proponents) to apply to amend a SIMP where there is a failure of the existing SIMP to adequately manage the social impacts of the resource project.

The LGAQ recognises the concerns expressed by the Office of the Coordinator-General (OCG) that project conditions 'must be certain'. The LGAQ emphasises that under our proposal, *the SIMP condition is certain* (that is, it is mandatory for a project to have a SIMP); however, the contents of a SIMP can (and would) be amended to adjust to changed project operations and circumstances. This provides the necessary flexibility to ensure that a SIMP is able to be adapted over time to project and socio-economic conditions while still requiring on-going management of the social impacts of a resource project. The approach proposed by the LGAQ is consistent with the approach taken for an Environmental Authority and for mining and petroleum lease development plans.

The LGAQ notes that section 9(4) of the SSRC Bill provides for a statutory guideline to be put in place in relation to the content of a SIA and we believe that the SSRC Bill should also provide for a statutory guideline in relation to the content of a SIMP. Without such a guideline, there is no mechanism to link the proposed policy measures outlined in the SSRC Policy Framework with the contents of a SIMP. Such policy measures include, for example, company procurement programs, worker accommodation arrangements and support for worker health and wellbeing. The LGAQ points out that, without the ability to link these policy measures to the SIMP, there is no enforcement mechanism to ensure that these policy measures are implemented. The relationship between the SSRC Policy Framework and the

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<sup>4</sup> See for example, section 157 of the *Petroleum and Gas (Production and Safety) Act 2005*.

<sup>5</sup> The LGAQ notes that as part of its *Innovative Resource Tenure Reform Position Paper*, the Department of Natural Resource and Mines is seeking to delineate 'projects' under resources legislation and this would enable alignment between a SIMP and a project later development plan.

SIA/SIMP process being proposed by the LGAQ is outlined in the yellow section of the diagram provided at **Attachment 1**.

## 5.2. Cumulative impact management

In LGAQ's submission to the Independent Review of the GasFields Commission, the LGAQ suggested that a revamped Commission should have a strong role in monitoring the cumulative impacts of resource activities and in making recommendations for improvement. As stated in the LGAQ's submission:

*The cumulative impacts of multiple projects operating in the same area are particularly complex and poorly understood. Similarly, it is difficult for the state government to make decisions on project approvals and conditions – and properly regulate the sector – when the local and cumulative impacts of resources sector activities are unclear. The lack of comprehensive, trusted information on the actual and potential impacts of the resources sector is one of the reasons why community confidence in the sector has declined.*

*...While the term 'social licence' is ambiguous and difficult to define, it nevertheless is at the heart of community concerns over the sector. At a practical level, it would entail ...monitoring the economic and social (and potentially environmental) impacts of the resources sector, identifying and analysing trends in performance and providing recommendations to government and other stakeholders on how to improve performance.*

*...This requires a multi-agency, multi-stakeholder approach that a departmental structure is unsuited to achieve, largely because each agency needs to be held to account for its own performance in assessing and managing the impacts of the resources sector.*

While the LGAQ's suggestion of an expanded role for the Commission was not taken up by the review, the review did conclude that it was an 'issue for consideration' and recommended "that consideration be given to the establishment of a multi-agency, multi-stakeholder body charged with the role of monitoring, reporting on and advising on the cumulative impacts of multiple projects operating in the same area with respect to social, economic and environmental impacts on the local, regional and state levels".<sup>6</sup>

The LGAQ welcomes the proposal in the SSRC Policy Framework for local governments to participate in regional cross-agency reference groups (CARs). The Association believes that CARs could have a vital role in improving the cumulative impact management of resource projects, as well as contributing baseline information that informs the SIAs and SIMPs of individual projects. However, while the draft SIA Guideline refers to the CARs, further work needs to be done on the terms of reference for these committees, as well as how these committees are intended to operate. In particular, as currently conceived in the SIA guidelines, the work of the CARs would be limited to future resource projects and not include managing the impacts of existing projects. The LGAQ believes that the CARs have a role in ensuring a collaborative and consistent approach to managing the social impacts of the resources sector as a whole (including the cumulative impacts) and not just individual future projects.

To ensure that there is a long-term government commitment to CARs and the management of both current and future impacts of resource projects, the LGAQ believes that the SSRC Bill should include the following:

- The ability for the Minister to declare a cumulative impact area (CIA). The LGAQ suggests that the Minister should declare at least three cumulative impact areas: the Surat Basin, the Bowen Basin and the Northwest Minerals Province. Depending on resource project developments, the Minister may also need to declare a CIA for the Galilee Basin.

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<sup>6</sup> Scott, Robert P. 2016. *Independent review of the Gasfields Commission Queensland and associated matters*. State of Queensland, Department of State Development. p. 81.

- A requirement for the Minister to regularly report to Parliament on the social impacts of resource projects in declared cumulative impact areas, as well as actions taken by the Queensland Government, local governments and resource companies to manage these impacts.
- A general power for the Minister to require resource companies to provide data relevant to the assessment of social impacts.

In addition, the Government needs to ensure that it provides adequate resources (both in terms of secretariat and budget) to support the work of the CARs.

At the same time, there is a need for SIMPs for individual projects to be regularly updated according to contemporary circumstances, including taking account of the cumulative impacts of resource activities. The light blue components of the diagram provided at **Attachment 1** describes the cumulative impact management arrangements proposed by the LGAQ.

### 5.3. What the LGAQ seeks

In summary, the LGAQ seeks:

#### 3) That the SSRC Bill includes:

- a) A mandatory condition for resource projects falling within the scope of the legislation to have a SIMP approved by the Minister.
  - b) A requirement for a resource project to regularly review and update its SIMP, including when there is a significant change to project operations and, for single-lease projects, at renewal of the tenure.
  - c) The ability for a local government (and a project proponent) to apply to the Minister to amend a SIMP due to a significant change in circumstances.
  - d) Provision for a statutory SIMP guideline.
  - e) The ability for the Minister to declare a cumulative impact area.
  - f) A requirement for the Minister to report regularly to Parliament on the social impacts of resource projects in declared cumulative impact areas, as well as actions taken by the State Government, local governments and resource companies to manage these impacts.
  - g) A general power for the Minister to require companies to provide data relevant to the assessment and management of social impacts.
- 4) Further consultation be undertaken with local government, the resource sector and stakeholders on the terms of reference and operation of the proposed regional Cross-Agency Reference groups (CARs).
  - 5) The Government commits to adequate resourcing for the proposed CARs, including secretariat support and operating budget.

## 6. Managing the social impacts of existing projects

The LGAQ is concerned that the proposed scope of the SSRC Bill is too narrow to encompass all of the projects that ought to be subject to its provisions. The SSRC Bill focuses on “*large resource projects*”, with Schedule 1 defining a large resource project as “*a resource project for which an EIS is required*”. By focusing on ‘large resource projects’ the SSRC Bill assumes that it naturally follows that only those projects large enough to be required to produce an EIS will have significant social impacts. However, it is the experience of local councils that even small to medium-sized projects (which do not go through an EIS process) can still have significant social impacts, for example, if they are located close to small towns in remote areas.

Furthermore, the LGAQ believes that there are a number of projects that ought to come within the scope of the SIA/SIMP provisions of the SSRC Bill that are excluded. These include:

- Projects that commenced prior to the introduction of the EIS process.

- Projects that, in the initial stage of operation, did not trigger the requirement for an EIS but through incremental growth have become projects large enough to significantly impact local communities.
- Small and medium projects that, due to their location near a community, will significantly impact that community, for example, small towns in remote areas.

Due to these anomalies, the Minister should have the ability to include in the scope of the SIA/SIMP provisions of the SSRC Bill those projects that do not fall within section 9(1). The LGAQ notes that such a provision will require criteria to be established to guide the Minister in making this decision; however, the most important consideration is whether a project is affecting the local community to the extent that a SIMP is warranted. In the case of small to medium-sized projects that would not ordinarily trigger an EIS, the LGAQ understands that the Coordinator-General can set terms of reference for an SIA and that this could ensure that the focus of the assessment is on the specific risks of the project. This in turn should avoid an unnecessarily onerous SIA/SIMP process. If the LGAQ's approach is adopted, the legislation should also provide local councils with the opportunity to apply to the Minister to have projects undertake an SIA and have an approved SIMP.

**The LGAQ cannot emphasise strongly enough that the utility of the proposed SSRC legislation will be severely compromised if a resource project is able to be excluded from the requirement to manage the social impacts of its activities simply because of the date it commenced and despite the fact that its social impacts are significant.** The LGAQ recognises that transitional arrangements will be required to bring resource projects into compliance with a mandatory SIMP condition; however, it is simply untenable for some resource projects to be required to manage their social impacts but other projects with similar impacts are not. This is not only an issue of equity for local communities (as they are the ones who will bear the costs of unmanaged social impacts), but also an issue of equity between resource projects, where some projects will have the responsibility for managing their social impacts but other projects will not.

**The LGAQ believes that the Government should consult with local government, the resources sector and stakeholders and develop a Transition Plan that ensures both current and future resource projects undertake an SIA and have in place a SIMP by 31 December 2020.** Given that resource projects operating in the same resource basin are often affecting the same communities, it is likely that the most efficient and effective way to achieve this objective is to undertake an assessment of the social impacts of the resources sector on these communities as a whole, rather than each project undertaking its own individual assessment, with this assessment undertaken by the regional CARs. To give one example – many companies use the same local and regional roads. Assessing the impacts of the resources sector on the road network as a whole could help determine the best method(s) for ensuring the road network is safe and productive, including taking into account the different responsibilities of the resources sector (as a road user) and the local and State Governments (as road managers). Once again, the LGAQ emphasises that these impacts are far more easily managed when information is provided early to councils and agreements are negotiated in good faith between the resource projects and local government before impacts are experienced by local communities.

In relation to the scope of the Bill, the LGAQ notes that the term 'resource activity' covers authorised activities related to authorities and licences issued under the various resource Acts (for example the *Mineral Resources Act 1989*). The LGAQ is concerned that this definition may not allow consideration of the social impacts of activities related to a resource project but which are not conducted on the resource tenure, for example, a warehouse or processing unit. The LGAQ believes that the scope of the legislation should be wide enough to cover these 'off-site' activities.

## 6.1. What the LGAQ seeks

**In summary, the LGAQ seeks:**

### 6) That the SSRC Bill includes:

- a) The ability for the Minister to require a project that has not been through an EIS process to undertake a SIA and have an approved SIMP. The criteria for the inclusion of a project should be based on the actual and/or potential impact of the project on local and regional communities.**

- b) For projects that have not undertaken an EIS process, the ability for local councils to apply to the Minister for a project to undertake a SIA and have an approved SIMP.
  - c) That activities related to a resource project but which are conducted 'off-site' are included in the scope of the SIA/SIMP process.
- 7) That the Government consults with local government, the resources sector and stakeholders and develop a Transition Plan that ensures resource projects undertake an SIA and have in place a SIMP by 31 December 2020. This process should encompass a cumulative impact assessment of each of the main resource basins by Cross-Agency Reference Groups.

## 7. Ensuring fair and reasonable access to employment and business opportunities

As mentioned previously, the LGAQ believes that it is essential that there are effective measures that ensure fair and reasonable access to employment and business opportunities arising from resource projects. While the LGAQ welcomes the proposed policy and legislative measures, the LGAQ has a number of suggestions aimed at strengthening this framework.

### 7.1. Prohibition on 100% FIFO for future projects

The LGAQ welcomes and supports the proposed prohibition on a 100% FIFO workforce for future projects. The Association's policy has been to oppose 100% FIFO developments in established resource communities, as they discriminate against all Queensland workers outside identified FIFO hubs; negatively impact the social cohesion of local communities; and diminish the transfer of economic benefits to local and regional communities.

The LGAQ strongly endorses the object of SSRC Bill *"to ensure the residents of communities in the vicinity of large resource projects benefit from the operation of the projects"*, including requiring the proponents of large resources projects *"to employ people from nearby communities"*. As indicated by the object of the SSRC Bill, **the real purpose of the prohibition of a 100% FIFO workforce is to help ensure that the social and economic benefits of resource projects flow to resource communities, including through employment by resource projects.**

In this context, the LGAQ emphasises the important contribution of resident workers – particularly workers with families – to local towns, not just economically, but also through their participation in a town's social life, including schools, sporting clubs and community groups. For this reason it is important to think widely about the options resource companies have for employing people from nearby regional communities, including facilitating the relocation of workers to the regional area.

In relation to the specific prohibition on a 100% FIFO workforce proposed in the SSRC Bill, the LGAQ is concerned that the situation may arise where simply employing one 'non-FIFO' employee would meet the prohibition on a 100% FIFO workforce. The LGAQ acknowledges that section 7 of the SSRC Bill provides for the prohibition on a 100% FIFO workforce to be an enforceable condition; however, we do not believe that this will adequately manage the problem of a company having a very low number of non-FIFO employees (or even a single employee) that technically meets the requirements of section 6(2), but does not meet the intent of this requirement: to ensure that social and economic benefits of resource projects flow to resource communities. In the circumstance where a company has technically met the prohibition on a 100% FIFO workforce, it is difficult to see how the Coordinator-General can insist that active measures be taken to increase the non-FIFO component of the workforce, even if using the enforcement measures available to him under section 157A of the *State Development and Public Works Act 1971*.

To overcome this problem, **the legislation should make it mandatory for a project that meets the requirements of section 6(1) to have a social impact management condition in relation to the employment of regional workers.** Instead of writing a condition in the negative – that is, a project is required *not* to have a 100% FIFO workforce – the enforceable condition should be in relation to the *positive actions* that a resource project must take to employ regional workers. To ensure that specific employment conditions are achievable, they should be based on an assessment of the labour market before a project commences, with this condition(s) structured in such a way that it can be regularly

reviewed and updated according to changes in the employment market and project operations. This will ensure that workforce management condition(s) take account of circumstances where there is very low unemployment in the local area, as well as circumstances where there is high unemployment. In situations of very low unemployment, a condition that requires significant local employment by a resource project can have the effect of taking skilled labour away from existing businesses, including the local council(s).

To further facilitate the employment of regional workers, the LGAQ believes that the prohibition on a 100% FIFO workforce should be for the whole of the life of a project and not just the “*operational phase*”, as provided for in section 6(2). While the LGAQ acknowledges that section 12 of the SSRC Bill gives the Coordinator-General the ability to extend the prohibition on a 100% FIFO workforce to the construction phase of individual projects, section 6(2) is still unnecessarily restrictive. Instead, the section 6(2) prohibition on a 100% FIFO workforce should be for the life a project, with a proponent able to apply to the Coordinator-General for an exemption to this prohibition for the construction and/or decommissioning phases of its project. This exemption should only be granted where a project proponent can demonstrate that it is unfeasible to employ members of a regional workforce during the phase.

Finally, the LGAQ would like to suggest an alternative approach to that proposed by the Bill in relation to defining a “*nearby regional community*”. Section 6 of the SSRC Bill provides that the prohibition on employing a 100% FIFO workforce applies to a “*large resource project that has a nearby regional community*”. Schedule 1 of the SSRC Bill defines a “*nearby regional community*” as meaning:

*...a town, the name of which is published on the department’s website under section 13, that has a population of more than 200 people, any part of which is –*

- (a) within a 100km radius of the entrance to the project that is closest to the town’s boundary; or*
- (b) within a greater or lesser distance from the project decided by the Coordinator-General and notified in writing by the Coordinator-General to the owner of the project.*

The LGAQ is concerned that the definition of a ‘nearby regional community’ is linked to the number of people living in a town, particularly as population numbers can fluctuate. In addition, it may be the case that a worker lives on a property outside of town, rather than the town itself, and therefore does not fall within the scope of the words “*resident of a nearby regional community*” (although the LGAQ acknowledges that the Explanatory Notes state that “*it is intended that individuals living between nominated localities would be captured by clause 6 and the anti-discrimination provisions*”).

The LGAQ believes that a simpler and more straightforward definition could be based on the area around the mine rather than the size of a town. Instead of defining a “*nearby regional community*”, the SSRC legislation could define a ‘regional employment area’. In the case of mines, the LGAQ suggests that such an area is defined as ‘the area within a 150 km radius of the boundary of a project’ (noting that a project can consist of multiple permits and the boundaries of these permits should collectively determine the boundary of the overall project). The LGAQ has suggested a 150 km radius for the regional employment area due to the nature of the distances in some regions, such as the Northwest Minerals Province, and the need to ensure that workers in these areas have access to employment opportunities provided by resource projects.

However, the LGAQ acknowledges that defining a ‘nearby regional community’ by distance from the mine can be somewhat arbitrary, a fact recognised in the SSRC Bill in that the Coordinator-General has discretion to determine a nearby regional community. Moreover, in the case of petroleum projects, defining a nearby regional community by distance from the project is impractical, as petroleum tenures are extensive and do not ordinarily have a discrete ‘entrance’

The alternative approach is for the legislation to require the Coordinator-General to determine a regional employment area in accordance with a statutory guideline, with this guideline including a requirement for a comprehensive analysis of the labour market. Given the sensitivity and vital importance of this decision to local communities, **the LGAQ would only support the Coordinator-General setting a regional employment area according to a statutory guideline if there is also a statutory**

## **requirement for the Coordinator-General to consult with local government before this determination is made.**

In summary, the LGAQ proposes the following measures for achieving the prohibition on a 100% FIFO workforce:

- The legislation defines a 'regional employment area', along with definitions for 'resident regional worker' and 'non-resident worker'.
- The Coordinator-General is required to determine the regional employment area for a project based on a statutory guideline. This statutory guideline requires an analysis of the labour market.
- There is a statutory requirement for the Coordinator-General to consult with local government in determining the regional employment area for a project.
- The Coordinator-General is required to set a social impact management condition(s) regarding the positive actions that a resource project must take to employ regional workers. Meeting the requirements of this condition(s) must ensure that a project meets the prohibition on a 100% FIFO workforce and should be structured in such a way that it can be regularly reviewed and updated.
- The section 6(2) prohibition on a 100% FIFO workforce is for the life of a project, with a project proponent able to apply to the Coordinator-General for an exemption to this prohibition for the construction and/or decommissioning phases of a project.

### **7.2. Application of the prohibition on 100% FIFO workforce to the Carmichael Project**

The LGAQ is concerned to ensure that the prohibition on a 100% FIFO workforce will operate in the case of the Carmichael Mine and Rail Project (the Carmichael Project), which has completed its EIS but has not yet commenced operations. To this end, the LGAQ believes that the scope of the prohibition on 100% FIFO arrangements should apply to projects that have yet to commence at the time the Bill is passed, as well as to projects that commence an EIS process in the future [as provided for in section 6(1)]. Moreover, there should be a legislative requirement that, where greater than two years has elapsed between when an EIS was completed and a project is to commence, the SIA must be reviewed based on contemporary circumstances and a revised SIMP put into place, including ensuring that the project meets the prohibition on a 100% FIFO workforce.

In combination, the measures proposed by the LGAQ should mean that the Carmichael Project will:

- See the Minister declare a regional employment area for the Carmichael Project that provides the opportunity for qualified regional residents to be employed at the mine, thereby prohibiting the Carmichael Project from being 100% FIFO.
- Require that the proponent for the Carmichael Project review its current SIA and put in place a revised SIMP that facilitates the employment of local and regional workers.

### **7.3. Prohibition on discriminating against local workers**

The LGAQ strongly supports the intent of the Government in seeking to ensure fair and reasonable access for regional residents to employment opportunities arising from resource projects. As such, the LGAQ welcomes the proposed measures in the SSRC Bill to prevent discrimination against local workers in the recruitment process for resource projects and also to prevent discrimination against a worker who becomes a resident of a local community, thereby choosing to no longer work on a FIFO basis.

However, the LGAQ is concerned that the scope of the proposed measures is overly restrictive, as they only apply to projects that have undertaken an EIS process (refer to section 131C of the SSRC Bill). Many large mining projects commenced before the EIS process was brought into effect and the LGAQ believes that the requirement not to discriminate against the recruitment of local workers should apply equally to all mining projects, irrespective of when they commenced. The LGAQ notes that a requirement not to discriminate against local workers in the recruitment process is in conflict with a conditions set by the Coordinator-General that permit some projects to have 100% FIFO workforce (as is the case with the Daunia and Caval Ridge Mines). In these circumstances, the LGAQ believes that

the anti-discrimination provisions should take precedence over the condition set by the Coordinator-General, but allow a transition period for these projects to comply with this new requirement.

In introducing measures to prevent discrimination against local workers, the LGAQ believes that it is important that these measures do not result in an adversarial, legalistic approach to employment issues, as the overall effect will be contrary to what is required: closer cooperation between resource companies and local communities in ensuring fair and reasonable access to employment opportunities for residents. As such, the LGAQ would welcome the opportunity to discuss with the Government and other stakeholders effective monitoring arrangements for these new provisions.

The LGAQ also notes that the proposed prohibition on discriminating against employees extends only to the recruitment process [refer to section 8(2)]. However, resident workers can be disadvantaged in relation to workforce arrangements such as shift lengths, roster rotations and professional development opportunities. In some instances, even workers within a safe commuting distance of a project are nevertheless required to stay in overnight accommodation rather than return home on a daily basis. Collectively these and other measures make employment more attractive and rewarding for non-resident workers than those workers that are employed locally. The LGAQ therefore believes that Government should have in place measures to prevent resident workers being disadvantaged in relation to these more detailed workforce management issues. As indicated previously, statutory SIMP Guidelines could play an important role in linking the Government's policy measures with SIMP requirements [which would be enforceable under section 11(3) of the SSRC Bill].

In relation to section 8(1), if the approach for the prohibition on 100% FIFO suggested by the LGAQ is followed, then the reference to "*nearby local community*" should be replaced with a prohibition on discriminating against 'local and regional resident workers'. The LGAQ notes the alternative position put forward by Isaac Regional Council that this clause could completely prohibit recruitment and recruitment advertising that discriminates against workers on the basis of where they live. If this position is accepted by the Government, the LGAQ would be keen to ensure that such an approach would not prevent positively advantaging local and/or regional workers, should this be assessed in a SIA/SIMP process as beneficial.

#### 7.4. Improving access to procurement opportunities for local business

The LGAQ welcomes the SSRC policy measures proposed by the Government to improve access by local business to procurement contracts. The LGAQ has received significant feedback from councils on the need to ensure that local contractors have fair and reasonable access to procurement opportunities. For example, councils are concerned that local contractors are being locked out of procurement opportunities where resource projects use tender processes that are limited to Brisbane-based contractors. The LGAQ also believes that clear definitions of 'local' and 'regional' are necessary, as some companies are using 'Australasia' as their definition of 'local' procurement.

The LGAQ believes that there needs to be thorough examination of procurement processes used by resource projects and the policies and programs needed to improve access by local contractors to resource project procurement opportunities. As mentioned previously, experience has demonstrated that policies related to procurement programs need to not only encompass removing impediments and facilitating access to business opportunities, but also must encompass building the capacity of local businesses to identify procurement opportunities and meet resource company requirements.

At the same time, a SIMP statutory guideline (as proposed by the LGAQ) would provide the necessary link between Government procurement requirements and the SIMP of a resource project; this in turn would make compliance with the Government's procurement policies an enforceable condition under section 11(3). The LGAQ notes that resource project employees can sometimes lapse in observing local procurement guidelines; in this context, making local procurement programs an enforceable condition of resource projects could help ensure on-going compliance.



## 7.5. What the LGAQ seeks

In summary, the LGAQ seeks:

8) That the SSRC Bill includes:

- a) A definition of 'regional employment area', along with definitions for 'resident regional worker' and 'non-resident worker'.
  - b) A requirement that the Coordinator-General determine the regional employment area for a project based on a statutory guideline. This statutory guideline requires an analysis of the labour market.
  - c) A requirement for the Coordinator-General to consult with local government in determining the regional employment area for a project before this decision is made.
  - d) A requirement for the Coordinator-General to set a social impact management condition(s) regarding the positive actions that a resource project must take to employ regional workers. Meeting the requirements of this condition(s) must ensure that a project meets the prohibition on a 100% FIFO workforce and should be structured in such a way that it can be regularly reviewed and updated.
  - e) The section 6(2) prohibition on a 100% FIFO workforce is for the life of a project, with a project proponent able to apply to the Coordinator-General for an exemption to this prohibition for the construction and/or decommissioning phases of a project.
  - f) The prohibition on 100% FIFO workforce arrangements applies to a project that has not commenced operations at the time the SSRC Bill is passed.
  - g) Where greater than two years has elapsed between the completion of an EIS and the commencement of the project, the SIA must be reviewed and a revised SIMP approved.
  - h) Anti-discrimination provisions extend to all mining projects and not just those that have undertaken an EIS process.
  - i) Anti-discrimination provisions extend to all workforce arrangements and not just recruitment.
- 9) An assurance that the Carmichael Project will be prohibited from being a 100 per cent FIFO project.
- 10) The State Government works with local government and the resource sector to undertake a detailed review of procurement processes used by resource projects and develop policies and programs needed to improve access by local contractors to resource project procurement opportunities.
- 11) SIMP guidelines ensure that the Government is able to monitor and enforce local procurement policies.

## 8. A note on the decision-maker

Throughout this submission, the LGAQ has placed the Minister in the role of decision-maker, rather than the Coordinator-General. While there is certainly a role for independent and rigorous analysis of social impacts and their management, social impact management conditions are not technical issues; they are decisions that weigh up the extent to which local and regional communities should be asked to bear the costs of a resource project and the extent to which the benefits of a project should flow to local and regional communities in the form of employment and business opportunities. For this reason, it is the LGAQ's view that the appropriate decision-maker on social impact management conditions is the Minister, rather than the Coordinator-General.

## 9. Future consultation

The LGAQ believes that consultation processes need to be improved to better enable stakeholders to work together to identify solutions for better managing the social impacts of resource projects on communities. While the Office of the Coordinator-General (OCG) has made an effort to consult with stakeholders, this process has been ad hoc and the timeframe to comment on draft legislation has been very short, which has made it difficult for the LGAQ to consult with members on proposed measures.

More importantly, local government – and presumably other stakeholders – have not been afforded a genuine opportunity to contribute ideas to the SSRC Policy Framework or the SSRC Bill before the basic structure and content of these documents was put forward by the Government. The LGAQ believes that all stakeholders would have appreciated the opportunity to meet together, to listen and discuss different perspectives on the proposed policy framework and legislative measures and to contribute to the thinking behind these documents before they were drafted. We believe an opportunity has been missed to foster a strong working relationship between the State Government, the resources sector, local government and stakeholders and that a more collaborative process would have strengthened both the SSRC Policy Framework and the SSRC Bill.

In making this observation, the LGAQ acknowledges the efforts made by the Minister for State Development and Minister for Natural Resources and Mines, the Hon Dr Anthony Lynham, to improve consultation with stakeholders through convening the Resource Communities Roundtable. The LGAQ appreciates this forum and the efforts made by the Minister to listen to the views of stakeholders. However, while broad issues can be canvassed at the Roundtable, more detailed discussion between stakeholders is required at the technical level for social impact management reforms to be effectively thought through and implemented.

To improve outcomes for both the resources sector and local communities, the LGAQ believes that the Government should establish a working group of senior officers from the State government and representatives from local government, the resources sector and other peak bodies that can work together on improving the management of the social impacts of resources projects, including implementing the measures proposed in the SSRC Policy Framework and the SSRC legislation. This includes for example, developing a Transition Plan for existing projects to undertake an SIA and put in place an approved SIMP, the development of statutory SIA and SIMP guidelines and identifying actions required to implement elements of the SSRC Policy Framework, for example, measures related to local procurement.

### 9.1. What the LGAQ seeks

**In summary, the LGAQ seeks:**

- 12) That the Government establish a working group of senior officers from the State Government and representatives from local government, the resources sector and other peak bodies to work together on implementing the measures proposed in the SSRC Policy Framework and SSRC legislation.**

## 10. Conclusion

The LGAQ greatly appreciates the Government's commitment to developing the SSRC policy and legislative framework. As well as highlighting measures that would assist in ensuring fair and reasonable access to employment opportunities for local workers, the LGAQ's submission is also aimed at providing the Committee with the opportunity to consider an innovative and transformational approach to managing social impact issues in the resources sector.

The LGAQ believes that implementing an adaptive social impact management system will see greater benefits flow from resource projects to resources communities, as well as a significant improvement in the overall liveability and financial sustainability of these communities.

## 11. LGAQ Contact

Should you require further information on the matters raised in this submission, please contact Ms Sarah Buckler, General Manager – Advocacy, [REDACTED]  
[REDACTED]