Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025

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To the Secretary, State Development, Infrastructure and Works Committee

RE: Inquiry into Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025

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1.0 Summary

The QUT Environment and Social Governance Research Group/School of Law and Dr Parsons welcome the Queensland State Government's proposals to introduce a Social Impact Assessment ('SIA') and Community Benefits Agreement ('CBA') framework for renewable energy projects in Queensland. However, the Queensland Government could improve the proposed model to standardise processes further and avoid unnecessary risks. This submission considers the limitations of the proposed amendments. We suggest further amendments to better align with best practice for SIA and CBA models.

By failing to mandate methodological processes for data collection and reporting, and by not legislating appropriate SIA guidelines, the Government risks standardising poorer outcomes for local communities and undermining the amendments' goal of achieving

social licence in communities. Additionally, as evidenced by previous findings of the NSW Independent Commission Against Corruption ('ICAC'), community benefit schemes are fraught with risks of political capture and perceptions of bribery. The Queensland Government could avoid these risks by mandating power-sharing arrangements for community participation in negotiations, based on best practice for community engagement. Finally, while we welcome the standardisation of approval processes, we remind the Queensland Government of its obligations to assist Australia in fulfilling its Nationally Determined Contributions and rolling out renewable energy to mitigate climate change impacts. There is potential that the proposed reforms will lead to undue delays in the transition to renewable energy, particularly during public notification and third-party appeal periods. Therefore, we recommend that while implementing standardised approval processes, the Queensland Government ensure that renewable developments are streamlined, with timely approval and safeguards against inappropriate interference.

Finally, there is a missed opportunity in the Bill to provide a consistent framework across all development types, notably coal seam gas projects and other extractive developments. This uneven playing field represents an absence of procedural fairness, which risks embedding both industry and community discontent.

We recommend that the Queensland Government:

- Expand the amendments to ensure predictable and standardised approval processes for all forms of development that present significant social impacts.
- Amend the Queensland Social Impact Assessment Guidelines to reflect best practice guidelines for qualitative social science research and provide additional guidance materials on how to conduct that process.
- Mandate community engagement and consultation through CBA negotiations to ensure transparency and the best outcomes for impacted communities.
- Ensure that renewable energy developments remain streamlined and protected from unnecessary delays, to ensure that Queensland does not inadvertently prevent Australia from fulfilling its Nationally Determined Contributions.

2.0 Best Practice Standard for Social Impact Assessments

2.1 Limitations of proposed framework

We welcome the amendments to the *Planning Regulation 2017* (Qld). Amendments to require SIA and CBA for prescribed renewable energy facilities represent an essential

step in standardising renewable energy approvals, which until now have been decentralised and assessed on a case-by-case basis by local governments.[1] While we welcome the proposed amendments to require renewable energy developments to comply with a consistent and standardised process for project approvals, we believe the proposed amendments could go further. If the proposed model passes, SIA and CBA requirements would apply to prescribed renewable energy facilities alongside resource extractive industries.[2] The proposed amendment states that a development requiring an SIA is regarding 'a material change of use premises for a prescribed renewable energy facility' and '... a wind farm'.[3] The amendment defines a prescribed renewable energy facility as a solar energy facility that 'generates 1MW or more of electricity or energy from a source of solar; or the total area of land used for solar panels and structures for mounting solar panels, including any land between the solar panels and structures, is 2ha or more.'[4] However, the amendments could go further to standardise approval processes across the renewable energy sector. For example, the *Planning Regulation 2017* (Qld) defines a that renewable energy facility as 'a premises for the generation of electricity or energy from a renewable source, including, for example, sources of bioenergy, geothermal energy, hyrdropower, ocean energy, solar energy or wind energy; but does not include the use of premises to generate electricity or energy to be mainly used on the premises.'[5] It appears to be an oversight in developing these amendments to exclude other renewable energy facilities.

Recommendation: That the amendments are expanded to apply to all forms of development that present significant social impacts to ensure consistency across the sector.

2.2 Amending the SIA Guidelines

SIA Guidelines ('Queensland Guidelines') apply to all projects subject to an Environmental Impact Statement process under the *State Development and Public Works Organisation Act 1971* (Qld) or the *Environmental Protection Act 1994* (Qld) ('EP

[1] Matthew Austin, Ebony Sinnathamby, Candice Pareer, Jessica Owen and Jemika Dearberg, 'Brace for 'Impact': Significant Regulatory Changes Proposed for Wind and Solar Projects in Queensland' *King & Wood Mallesons* (Web Page 2 May 2025) <https://www.kwm.com/au/en/insights/latest-thinking/brace-for-impact-significant-regulatory-changes-proposed-for-wind-and-solar-projects-in-queensland.html>
[2] *Planning (Social Impact and Community Benefit) and Other Legislation Amendment Regulation 2025* (Qld) cl 12, 51K, 106Z ('Planning Amendment')
[3] Ibid cl12.
[4] Ibid cl 21.
[5] *Planning Regulation 2017* (Qld) sch 24 'definition of renewable energy facility'.

Act').[6] The SIA Guidelines are a statutory instrument for resource projects and a non-statutory instrument for non-resource projects subject to an EIS process.[7] As a result, the Coordinator-General will need to amend the Queensland Guidelines to make them a statutory instrument for renewable energy projects. This presents opportunities to amend the Queensland Guidelines further to reflect best practice. The New South Wales ('NSW') SIA Guidelines ('NSW Guideline') are considered to be best practice.[8] However, there are concerns with the NSW Guideline, and the requirement to update the Queensland Guidelines presents new opportunities to improve in line with best social-science practice. This section outlines some of the issues with the Queensland and NSW frameworks. It provides some recommendations on additional amendments to the framework to reflect best practice.

The Queensland Framework does not mandate a process for data collection. Section 2.3.2 of the Queensland Framework states that 'social baseline data must be as reliable as reasonably possible and include both desktop and field studies.'[9] Additionally, the Queensland Guideline requires that proponents evaluate the completeness of their desktop research before commencing field studies to identify the gaps they will need to fill through additional data collection.[10] Data collection methods are not discussed again until section 2.3.7, which requests that during the *monitoring, review and update* phase of SIA, proponents be required to monitor the implementation of their Social Impact Management Plan ('SIMP'), where a SIMP is necessary.[11] Data collection and analysis methods are not discussed at all in the Queensland Framework.

The NSW Guideline provides additional information to proponents in a non-mandatory 'technical supplement' document, designed to provide additional guidance regarding how they should conduct their SIA.[12] This document provides a list of criteria proponents

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[6] Queensland Government, Social Impact Assessment Guideline (2018) <https://www.statedevelopment.qld.gov.au/__data/assets/pdf_file/0017/17405/social-impact-assessment-guideline.pdf>.
[7] Ibid 1.
[8] For a critical analysis of this view see Paul McFarland, 'The Best Planning System in Australia or a System in Need of Review? An Analysis of the New South Wales Planning System' (2011) 26(3) *Planning Perspectives* 403-422 and Richard Parsons, Jo-Anne Everingham, and Deanna Kemp, 'Developing Social Impact Assessment Guidelines in a Pre-Existing Policy Context' (2018) 17(2) *Impact Assessment and Project Appraisal* 114-123
[9] Coordinator-General, 'Social Impact Assessment Guideline' (2018) *Queensland Government*, 3 <https://www.statedevelopment.qld.gov.au/__data/assets/pdf_file/0017/17405/social-impact-assessment-guideline.pdf>.
[10] Ibid.
[11] Ibid.
[12] NSW Government, 'Technical Supplement: Social Impact Assessment Guideline for State Significant Projects (2021) https://shared-drupal-s3fs.s3.ap-southeast-2.amazonaws.com/master-test/fapub_pdf/SIAG+-+Technical+Supplement+2v5+FOR+WEBSITE.pdf

should be aware of when exercising their professional judgement and interpreting the data they have collected. This list includes:

- Whether data was collected in a credible and rigorous way;
- Any potential limitations and the degree of uncertainty in the data;
- Differences in definitions and/or collection conditions and methods between sources;
- The qualifications and expertise of the author and any potential biases;
- What other sources say on the matter, especially if the verifiability of the data is unclear;
- Quoting and interpreting data at the correct geographical scale to avoid projecting data onto broader or narrower populations;
- Avoiding averages and medians when more specific or nuanced data will better profile the issue and give more meaning to the SIA report and ongoing monitoring;
- Data privacy considerations; and
- Capturing the different ways in which a social impact may be distributed or experienced, rather than only reporting an average or dominant view.[13]

Proponents conduct or commission SIAs, which are a necessary condition for receiving project approval.[14] However, there is limited guidance for proponents regarding how they should collect data for the purposes of developing their SIA, especially regarding non-quantifiable data, such as community feelings and connections to 'place'. This has led to proponents failing to conduct adequate SIAs, and receiving project approval based on poor science, which is then contested through the merit review process in the respective Land Courts.

The land where energy projects are developed is more than simply a place to generate value by exploiting resources. They are extensions of community heritage, values, emotions, livelihoods, functioning, wellbeing, and identity. These are ideas reflected in the SIA process.[15] The connection between people and the land where projects are developed is 'place-bound', and proposals to develop renewable energy projects require the occupation of this land and actively transform it. This transformation coincides with transformations for communities, where the landscapes they identify with is redefined profoundly.[16] This process significantly alters communities' sense of place.[17]

[13] Ibid 20.
[14] Planning Amendment, cl 51I.
[15] Qld Guidelines, 4.
[16] Van Wagner 2016, 311
[17] Amanda Kennedy and Cameron Holley, 'A case for 'place' in governing the energy-environment nexus' in Robyn Bartel and Jennifer Carter (eds) *Handbook on Space, Place and Law* (Edward Elgar Publishing Limited, 2021) 268, 270.

In theory, SIAs aim to integrate considerations of 'place' into energy approval processes. However, proponents often struggle to articulate 'place-based' considerations into SIAs. They privilege expert, quantifiable data, and employ technical analyses to articulate the burdens and benefits of development, which fail to engage with non-quantifiable perspectives such as community cohesion. connection to Country, sense of community, and a 'sense of place.'[18] As a result, the SIA process risks delegitimising community sentiment and values by failing to adequately represent their subjective experiences, fears, and aspirations. Continuing status-quo SIA processes, therefore, risks undermining the amendment's intended objectives to 'frontload the requirement to build social licence with communities.'[19]

A key contributor to social licence is the perceived fairness of processes of community engagement. In SIA, this dimension is typically considered via the category of 'decision-making systems', which refers to the capacity of affected communities to influence project design decisions. This category features in best-practice international and NSW guidance but is missing from the Queensland Guidelines.

Without more robust guidelines regarding how to conduct SIAs, proponents produce voluminous documents outlining all possible impacts, rather than conducting appropriate, proportionate, and rigorous research on material issues, including in-depth qualitative analysis of community sentiments.[20] Additionally, SIA processes - when paid for by proponents - often focus on asserting that a project has social licence, rather than practising robust social science. Proponents usually care more about public relations, the reputation of the project and their organisation than gathering strong evidence to support impartial assessment of a project. As a result, proponents frequently highlight favourable evidence from the community, rather than presenting balanced evidence of their views.[21] These practices directly result from the lack of rigorous standards mandated in the Queensland Guidelines. Proponents get away with these practices due to the limited capacity of regulators to assess the quality of SIAs. Project proponents are responsible for commissioning and funding SIAs because Government departments have limited resources and skills to evaluate the impacts reported by proponents. As a result, there is a risk of significant bias throughout the SIA process, from early planning phases, through scoping and assessment, to approval and impact management.[22] "Quality control" is only visible through merit review hearings in the Land Court, which

[18] Ibid, 271.
[19] Planning (social Impact and Community Benefit) and Other Legislation Amendment Bill 2025 Explanatory Notes 1
[20] Richard Parsons, Jo-Anne Everingham and Deanna Kemp, 'Developing social impact assessment guidelines in a pre-existing policy context' (2019) 37(2) *Impact Assessment and Project Appraisal* 114, 116
[21] Richard Parsons and Hanabeth Luke, 'Comparing reflexive and assertive approaches to social licence and social impact assessment' (2021) 8 *The Extractive Industries and Society* 1, 2.
[22] Kennedy and Holley (n 17) 273.

has the capability to interrogate the SIAs of contested projects.[23] However, merit reviews are not always available due to jurisdictional concerns and the prohibitively expensive cost of legal proceedings.[24]

Finally, the Queensland Framework does not identify who can prepare a SIA. The NSW Guidelines include a statement defining a 'suitably qualified person' for practising SIA in accordance with those Guidelines, in terms of qualifications, experience, and competence. Including a similar provision would help to ensure that the quality of SIAs is consistent with the Framework. Indeed, the Queensland Framework could improve upon NSW by referring to 'certified SIA practitioners' as automatically representing the standard of being suitably qualified.

Recommendation: We recommend that the Coordinator-General amend the Queensland Guidelines to reflect best practice for mixed-methods social science research and provide additional guidance materials on conducting robust, impartial research. This will ensure that applications for development are scientifically robust, reliable, and accurately reflect community interests, which is the intention of the proposed amendments to the *Planning Regulation 2017* (Qld).

2.2.1 What does best practice look like?

Scholars have identified that opposition to energy project development, especially renewable energy projects, often persists due to perceived inadequacies in decision-making and failures to adequately consult with community members.[25] Because SIAs commissioned and controlled by proponents are concerned with achieving social licence and community support, inadequacies in the decision-making processes critically undermine the purpose of SIAs and the intent behind the proposed amendments. It is now well documented that procedural justice and fairness are essential for building and maintaining social licence for industrial processes.[26] Therefore, transparent, impartial, procedurally fair, and methodologically sound SIA processes are integral to achieving just and equitable outcomes for communities that accurately represent their sentiments and experiences regarding a proposed project.[27]

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[23] Allison Ziller, *Social Impact Assessment: The good the bad and the unbelievable: A guide for reviewers* (Amazon, 2021)
[24] Kennedy and Holley (n 17) 274.
[25] Ibid.
[26] Hanabeth Luke , Martin Brueckner, and Nia Emmanouil, 'Unconventional gas development in Australia: A Critical Review of its Social License' (2018) 5(4) *The Extractive Industries and Society* 648, 654; Airong Zhang, Thomas G. Measham, and Kieren Moffat, 'Preconditions for Social Licence: The Importance of Information in Initial Engagement' (2018) 172 *Journal of Cleaner Production* 1559, 1559; Parsons and Luke (n 21) 6.
[27] Parsons and Luke (n 21) 6.

Firstly, procedural fairness occurs when community members feel their voice is heard, respected, and has influence in decision-making. Being heard is not enough. Because SIAs provide information that may determine whether a project that will impact a community is approved, transparency in the decision-making process and impartiality of the reporting and of the decision-maker are critical.[28] These principles are only achievable where stakeholders have genuine opportunities to voice their views and be respected throughout the assessment process. Additionally, proponents must provide communities with opportunities to see how their views materially influence how a project's impacts are characterised in the final reporting, and how - or whether - those views have helped to refine project design.[29] Further, this is not a static process, as reflected in the Queensland Guidelines; if a project is approved, it must go through continual monitoring and updating to ensure that proponents actively manage social impacts over the project lifecycle.[30] Therefore, communities must be meaningfully engaged through a rigorous, scientific, and transparent dialogue process throughout all phases of project development, operation, and decommissioning.[31] The term 'dialogue' is important here because it indicates a sharing of power, in contrast to typical consultation processes, which can be transactional.

Secondly, SIAs must be grounded in rigorous and robust methods including interviews, surveys, polls, workshops, meetings and other community activities.[32] Proponents must undertake these activities in accordance with relevant ethical and methodological social-science principles, investigate a diversity of views, and seek to understand what *really* matters to communities and their underlying values.[33] Additionally, these processes must be undertaken in plain English, so that proponents cannot hide their intentions, methods, or results behind technical jargon.[34]

These methods must be communicable to proponents, conducted by independent experts who are affiliated with relevant professional bodies, have no connection to projects or communities, and accept no benefit from the exercise of their professional judgement. While this may have some impact on who can conduct SIAs, many existing practitioners already meet these criteria. Additionally, these requirements ensure that SIA processes are conducted by the most qualified persons in an unbiased manner, which further assists in building social licence with communities.

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[28] Ibid.
[29] For an example of meaningful community engagement see Richard Parsons, 'Social Impact Assessment for Project Regulatory Processes' in Frank Vanclay and Ana Maria Esteves (eds) *Handbook of Social Impact Assessment and Management* (Edward Elgar Publishing, 2024) 158, 166.
[30] Qld Guidelines, 3.
[31] Parsons and Luke (n 21) 6.
[32] Ibid.
[33] Ibid.
[34] Ibid.

3.0 Community Benefit Agreement

The proposal for a community benefit agreement is flawed because there is no requirement for proponents or local councils to include community members in negotiations on the provisions of such agreements. CBAs are about providing benefits to a community in the area surrounding a development. They consist of contributions to infrastructure in the community or making a financial contribution to the area.[35] They require proponents to enter into agreement with the local government in the area where the proposed development will occur, as well as any other affected areas.[36] There are currently no requirements for local governments to reasonably engage with impacted communities when negotiating a CBA. Instead, these provisions are built on the assumption that local governments represent community interests adequately enough to negotiate on their behalf. Therefore, there is a risk that CBAs are politically captured, which undermines their ability to provide benefits to impacted communities and presents risks regarding the perception of bribery.

Similar concerns have been raised about Voluntary Planning Agreements ('VPAs') in NSW. VPAs emerged in response to community concern regarding the extent of development and a perceived lack of community benefit arising from it. VPAs are a voluntary agreement between project proponents and the planning authority and purportedly aim to provide a benefit to communities in development areas by funding or providing a public benefit.[37] They are voluntary in the sense that governments cannot reject a development authority because a VPA has not been entered into. However, the VPA system in NSW has been heavily criticised.

One of these issues is political capture. Local councils across Queensland face infrastructure funding problems and are under significant financial stress.[38] VPAs, like the proposed CBA model, allow developers to make their non-attractive developments more attractive to local councils by proposing a generous agreement to finance struggling council infrastructure. These risks create the perception that developers are bribing councils in exchange for more favourable outcomes.[39] The NSW Independent

[35] Planning Amendment cl 21, Division 4 cl 106Y.
[36] Ibid cl 106Z.
[37] *Environmental Planning and Assessment Act* (NSW) Part 7, Subdivision 2
[38] Australian Local Government Association, 'Financial Sustainability in Australian Local Government' (2024) https://alga.com.au/app/uploads/SGS-report-Long-term-trends-in-Australian-local-government-financial-sustainability.pdf Report
[39] Independent Commission Against Corruption, 'Anti-Corruption Safeguards and the New South Wales Planning System' (February 2012) 10 https://www.pc.gov.au/inquiries/completed/major-projects/submissions/submissions-test/submission-counter/sub022-major-projects-attachment4.pdf

Commission Against Corruption highlighted these concerns in their 2012 report, 'Anti-Corruption Safeguards and The NSW Planning System.'[40]

Similar risks are present in the proposed model for CBAs, perhaps to a greater extent. Under the proposed model, renewable energy proponents must conduct an SIA and enter into a CBA with the local government before lodging their development application.[41] This requirement distinguishes the proposed Queensland model from NSW, as the Queensland model mandates proponents to enter into CBAs with local councils, whereas the NSW model is voluntary.[42] This puts proponents at a heightened risk of exploitation by struggling local councils, who are not receiving adequate financial support from the State Government to respond to their infrastructure needs. Additionally, for the same reasons, the mandatory obligation risks creating the perception of bribery if a community does not support the outcome reached by the proponent and their local council.

Finally, the proposed CBA provisions have a significant omission by focusing solely on benefits, or positive social impacts. Since the SIA will also have identified negative social impacts, a more logical form of agreement would be an Impact and Benefit Agreement (IBAs), a concept that is well established internationally. This would enable ongoing management of both positive and negative social impacts to be formalised and enforceable through the IBA.

Recommendation: That the Queensland Government amend the proposed CBA provisions by reframing CBA as Impact and Benefit Agreements (IBA), and to require community engagement throughout IBA negotiations in a similar manner to SIA engagement. Community engagement should be rigorous and follow best practice social science standards to understand community needs and concerns. This process will influence the kinds of community projects that are financed, and bring greater transparency to a mandatory negotiation process that is fraught with financial and reputational risk.

[40] Independent Commission Against Corruption, 'Anti-Corruption Safeguards and the New South Wales Planning System' (February 2012) 10 https://www.pc.gov.au/inquiries/completed/major-projects/submissions/submissions-test/submission-counter/sub022-major-projects-attachment4.pdf
[41] Planning Amendment, cl 106R, 106Y, 106Z.
[42] Planning Amendment, cl 106Z

4.0 Additional Concerns

While we welcome a consistent and standardised approach to development assessments, we must caution against the creation of restrictive regulations that overly burden the renewable energy sector. The requirement to undertake an SIA for all wind and large-scale solar farm applications will extend the application process for these development categories. The potential for undue delays, particularly during periods of public notification and third-party appeals, is evident. Given the highly politicised nature of renewable energy developments, there is some concern that these public processes will present opportunities for Not In My Back Yard ('NIMBY') activists to deliberately delay viable projects for ideological reasons. Ensuring processes remain streamlined and timely, with safeguards against such interference, is key.

Furthermore, it is particularly concerning that the requirement for SIAs and CBAs is intended to operate retrospectively. This will undoubtedly generate additional delays in the assessment process for applications on foot when the reforms commence. Shifting the goal posts for applications that have already significantly progressed is frustrating for industry and will result in these applications being labelled as 'not properly made' under the new scheme.[43] Proponents of wind and solar farms will be forced to revisit project timeframes in order to meet these new demands. Additionally, only a draft SIA guideline is currently available, and it is not known how significantly requirements will shift once the document is finalised. This prevents the industry from being able to commence planning for these reforms now to reduce subsequent delays.

Finally, it is critical to note that renewable energy projects, similarly to resource extractive projects, do not happen in a vacuum. They exist within a broader context of human rights and international legal obligations, which Australia and Queensland are subject to. Australia's Nationally Determined Contributions commit Australia to reducing greenhouse gas emissions by 43% below 2005 levels by 2030. Queensland has an important role to play in helping Australia fulfil these commitments. While the standardisation of planning approval processes is important. We want to use this opportunity to remind the Government of Australia's broader climate obligations, which renewable energy projects aim to fulfil.

[43] Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025 (Qld) cl 106U.