



Dr Helen Locher
International Hydro Association
c/o Hydro Tasmania
Hobart, TAS

April 16, 2010

Dear Helen,

Please find below the results of Banarra's desktop review of the Hydropower Sustainability Assessment Protocol Draft0 Final Introduction and Section II Project Preparation, 12 April 2010.

Banarra is a specialist sustainability consultancy with significant expertise and experience in providing sustainability related assurance, audit and assessment services including:

- The design, trial and implementation of sustainability conformity assessment schemes. For example, WWF's Mineral Certification Evaluation Project, Newmont Mining's Five Star process, Oxiana Mining's OXims (integrated management system standards) and Rio Tinto/CSIRO Social Review Framework;
- Designing, trialling and implementing Westpac Bank's sustainable supply chain validation program; and
- Our experience with improving and researching self-regulatory schemes that measure sustainability performance including sustainability self-assessment processes at Santos, Hydro Tasmania and a global research project on mining sector sustainability self regulation with the Centre for Social Responsibility in Mining at the University of Queensland.

In addition Banarra has a strong understanding of the hydropower industry and the IHA Sustainability Guidelines from five years of providing sustainability assurance to Hydro Tasmania as well as trialling the HSAP Protocol on Upper and Lower Lake Margaret in October 2009. Richard Boele is recognised by International Register of Certificated Auditors (IRCA) as a Lead Certified Sustainability Assurance Practitioner and is a member of the inaugural AA1000 sustainability assurance standards Board.

Banarra conducted a one-day desktop review of the Hydropower Sustainability Assessment Protocol Draft0 Final Introduction and Section II Project Preparation 12 April 2010. The results of this review were shared with Dr Helen Locher (IHA), Andrew Scanlon (Hydro Tasmania) and Michael Simon (Oxfam Australia) in Hobart over the 15th and 16th April 2010.

Recommendation 1 – Stop structural work and focus on refinement only

The current form of the Protocol is a significant improvement from an assessor's perspective compared to the Draft Protocol August 2009 trialled in late 2009. The Draft Final Protocol's conceptual framework is clear and easy to understand as an assessment tool. Any further work on the fundamental conceptual approach risks eroding the very significant improvement the current draft represents for assessors.

Recommendation: Further work on the Protocol should be focused on refinement. No further work on the underlying conceptual approach is required.

Recommendation 2 – Check equivalence in scoring statements across topics

There are currently some significant differences between what is required at level 3s and 5s across some topics. For example, from a structural perspective the Governance topic contains a very significant number of components within each statement when compared to environmental topics in particular. The more components within each level statement, potentially the greater resources required by the assessor compared to other topics. Where there are long lists, it would benefit from questioning which of these components matter the most.

Additionally, there should be a level of performance equivalence across topics at level 3s and 5s unless there is a conscious decision from the Protocol preparers that a specific topic requires significantly different standards and approach to assessment.

Recommendation: Review equivalence of requirements across all level 3 and 5 statements and adjust to create a greater equivalence noting that they do not need to be the same.

In some cases, such as stakeholder involvement in decision making being required for a level 3 in the Indigenous topic but level 5 in other topics, Banarra understands these differences are the result of a conscious distinction.

Recommendation: Acknowledge and explain key deliberate differences in equivalence to prevent questioning of the Protocol.

Recommendation 3 – Strengthen social topics components

The components of environmental, technical and financial topics are clearer for an assessor than those in the social topics. The social topic components tend to be articulated at a higher or more conceptual level making them potentially more challenging to assess. To ensure greater consistency across topics the social components could be articulated in more practical terms.

The social topics also lack the level of specific assessment guidance that is provided in many of the other topics (e.g. examples of issues, risks, management approaches).

Recommendation: Strengthen or make more concrete the statements and their components in the social topics, as well as provide more specific assessment guidance.

Non-physical cultural heritage seems a significant omission, and some guidance needs to be provided on where this is addressed.

Recommendation: Make it clear where non-physical cultural heritage is addressed in the Protocol. It would seem logical to include it under Cultural Heritage and not constrain the topic to only physical artefacts.

Recommendation 4 – Sharpen the differences between levels

Table 3 (the HSAP Scoring Table) and the definitions of basic good practice for assessment, management and stakeholder engagement are very useful for the assessor and provide an important function in enabling consistent and replicable assessments to be undertaken. However the grading between level 3 and level 5 is questionable in some cases:

- **Assessment:** The term “comprehensive” is widely used at Level 5, but the definition is almost the same as saying “no significant gaps” and therefore provides little meaningful differentiation between levels. The more insightful differentiator between levels for Assessment would appear to be that at a level 3 it is project-focussed, and at level 5 it takes a wider, more regional view; addresses interrelationships amongst issues; and looks for opportunities as well as impacts.
- **Management:** The comment about “comprehensive” also applies here. References to more frequent monitoring at level 5 as a differentiator from level 3 seem questionable. Monitoring, review and improvements should be at a level and frequency appropriate to the identified issues.

A more insightful differentiator for management is that at a level 3 the current implementation or operational issues are well-managed, and at a level 5 there are processes in place to anticipate and respond to emerging issues and opportunities. That is, for better management processes the issues get more efficiently to the decision-makers in time and in a manner that supports acting on the issue. Additionally, statements about commitments being public, formal and legally enforceable may be better placed under the Disclosure criterion.

- **Stakeholder Engagement:** Use of the term “regular” for level 3 and “frequent” for level 5 seem questionable. The periodicity of engagement may not need to be regular or frequent, but should be appropriately timed. Other components of the Stakeholder Engagement grading already provide a useful differentiator between levels and could be sufficient (relating to stakeholder feedback and in cases involvement in decision-making). Another differentiator at a higher level to consider could be building capacity of the stakeholders to engage with the project.

Other examples of where levels could be sharpened include:

- Level 1 and level 2 both refer to ‘a number of relevant elements’.
- Assessment: for a level 5 consider in cases including appropriate third party review or recognition (assuming 3rd party means not a project employee).

Recommendation: Consider a general sharpening of the differences between levels. For some topics this may also result from the checking of equivalence (Recommendation 2 above).

Recommendation 5 – Address human rights more appropriately as an underpinning framework than a topic by topic reference

Currently human rights are referenced in various places within topics throughout the Protocol. The term *human rights* is usually listed as one of a number of impacts or issues to be addressed within specific topics. The lists are in fact detailing human rights impacts and issues relevant to the topic – therefore the inclusion of human rights within these lists is not appropriate. For example, the ESIA topic (II-13) lists examples of key social and environmental issues as “...livelihoods, gender,

human rights, Indigenous peoples, resettlement, cultural heritage, (and) public health..." All of these issue or impact areas fall under the international human rights framework articulated by United Nations human rights instruments.

As currently stated in the Introduction one of the principles underpinning the Protocol is respecting human rights. There is a significant opportunity for the industry to receive greater recognition for the extent to which the Protocol reflects current practice in terms of integrating respect for human rights into business. Of important relevance here is the Ruggie Human Rights Framework (<http://www.business-humanrights.org/Documents/RuggieHRC2008>), the result of the UN's Secretary General's Special Representative on business and human rights, that has gained significant global traction with business in the last year: the resource sector has been particularly engaged.

The important point here is that the Protocol already provides a human rights assessment framework; it is not necessary to treat human rights as an add-on in multiple topics, but to make its role as a human rights assessment framework more transparent.

Recognising and articulating the underpinning human rights framework that the Protocol is currently based on would allow various individual references to be removed, while affording the Protocol the due recognition for the extent to which human rights has been considered by the industry.

Recommendation: Consider in the Introduction a formal recognition and articulation of the Protocol's success in responding to human rights issues. This could take the form of acknowledging the Ruggie Human Rights Framework which the current Protocol responds to significantly. A simple way to do this would be to approach mapping of high profile and cross-cutting issues in the Introduction in a non-tabular manner, with human rights presented as an over-arching issue for some of the other high profile and cross-cutting issues.

Recommendation: Ensure that all human rights issues and impacts are identified and responded to at a best practice level by requiring at a 5 level that social impact assessments be designed and results presented using a human rights framework. There are an ever-increasing number of examples of this approach to SIAs now being undertaken.

Recommendation: Rationalise references to human rights throughout the Protocol,

As identified in Recommendation 3 the social topics including the Labour & Working Conditions topic could be strengthened. For example, it currently does not address contractors. The Ruggie Framework provides a concise list of labour-related human rights that could be a useful guide to the Labour & Working Conditions topic.

Recommendation: Review the Labour & Working Conditions topic in light of the labour-related human rights listed in the Ruggie Framework. Make this topic relevant to contractors as well as workers.

Recommendation 6 – Consider broadening references to plans

While for Section II the predominate focus on requiring plans as the primary management response is appropriate, a step before moving to planning for some topics should be the formulation of a policy. In general, it is noted that management processes will be most relevant to consider in moving from Section II into Sections III and IV.

Recommendation: Identify those topics where management should also require additional systems elements such as the establishment of a policy. For example, the labour and working topic in many

contexts would require a policy setting in the general approach to employee relations before proceeding with planning.

At present there is no distinct definition of “plans” in the glossary, whereas “management plans” are defined. To assist in making the Protocol applicable to projects of varying sizes, types and complexities, it would be of value to lessen the suggestion that plans must be corporate owned and topic dedicated.

Recommendation: “Plans” could be defined broadly in the glossary to include formal management plans as well as planned arrangements; to recognise that plans may be embedded in larger or other types of plans (e.g. water quality visual inspections associated with other operational procedures); and to recognise that the plans may be developed and to recognise the responsibility of entities other than the project developer/operator (e.g. contractors or government agencies).

Recommendation 7 – Bring together topics that are cross-Protocol

There are two primary types of topics within the Protocol; those that are overall management topics and those that are issue or impact specific. While these Protocol types are not identified and grouped together in the Protocol, the Protocol is less accessible for assessors and those being assessed.

Recommendation: To facilitate Protocol accessibility consider grouping Governance, Integrated Project Management, Communication and Consultation, Environmental and Social Impact Assessment as the first four topics. Review the statements and components of these topics to ensure they are appropriately structured. For example, there is an opportunity to integrate greater accountability into the Protocol’s approach by requiring at a level 5 for Governance public reporting of performance against the sustainability performance topics of high interest to stakeholders.

Recommendation: For better cohesion, the name of topic II-1 could be changed to Engagement & Communication. All of the substantive content under this topic relates to stakeholders and stakeholder engagement. Stakeholder engagement is used consistently throughout the Protocol, and I understand that sensitivities about the word “consultation” were raised during the Phase 2 Consultation. “Communication” is of a lower order than “engagement” and has less content dedicated to it in this topic, so it follows that engagement in the topic name may be more appropriate.

Recommendation 8 – Address tradeoffs in the Protocol

Currently the Protocol states in the Introduction that one of the principles underpinning the Protocol is that sustainable development calls for tradeoffs. It was not possible to identify how tradeoffs between topic areas will be accounted for in the scoring. For example how should excellent responses in an environmental area that is a trade off against a social topic be considered by the assessor and the assessment process in general? Without this principle being apparent in the Protocol there is a risk of undermining the Protocol’s integrity.

Recommendation: Incorporate into Governance at a level 5 the accounting of tradeoffs in public reporting. This then ensures what is a principle and a practice is formally recognised by the Protocol.

Recommendation 9 - Create greater accountability within the Protocol

The current Governance components are weak on driving better performance against the Protocol’s topics. This could be improved through better driving of accountability through the Disclosure criterion, and should set the expectations on disclosure across all other topics. For

example at the 3 level the project should publicly report on its performance in some of the sustainability topic areas, and at the 5 level on the topics of highest interest to its stakeholders.

Recommendation: Include public reporting of sustainability performance appropriately into the Governance topic and other relevant topics.

Also under Governance, use of terms such as assurance and verification are highly relevant and need to be used appropriately. At a level 5, it would appear more appropriate to have the process for managing non-compliance externally assured rather than the compliance report externally verified. External verification may be appropriate at a level 5 for a public sustainability performance report.

Recommendation 10 – Remove high-profile, cross cutting issues from the topics

Currently the inclusion of the high profile and cross cutting issues into each topic does not provide support for the assessor and it is questionable as to what it provides the project. Removal of this from each topic would be a straightforward simplification.

Recommendation: Remove from assessment guidance high-profile, cross cutting issues as they do not influence scoring. The cross cutting issues may become topics in future iterations of the Protocol and provide a useful context for all those using the Protocol.

Recommendation 11 – Merge levels 0 and 1

For an assessor it is often better to be assessing nothing than a response that has been put together at the last minute primarily for the assessment. The current distinction between a level 0 and 1 invites the later type of response from projects. The additional transaction time required as part of the assessment process to negotiate between a 0 and 1 is in probability disproportionately large for questionable benefit of knowing if a project has nothing in the topic or a significant number of gaps. The level 2 as posed in the Draft0 Protocol, in contrast, seems manageable and meaningful from an assessor's perspective.

Recommendation: Merge 1 and 0 levels.

Recommendation 12 – Review the not relevant & not verified options

To determine if a topic is not relevant to a particular project it is critical that the project is able to demonstrate to the assessor that an assessment has been conducted to determine the topic's relevance. The Indigenous and Cultural Heritage topics are two key examples of where an assessment needs to be completed before a defensible position can be taken on these topics' relevance.

Recommendation: Incorporate the need to sight evidence that an adequate assessment has been conducted to support a project's assertion that a topic is not relevant.

The not verified option is unsound and should not be included as it undermines the integrity of the Protocol and the assessors working with the Protocol. A score cannot be awarded without the presentation of evidence.

Recommendation: Remove the not verified option.

Recommendation 13 – Recognise the validity of oral evidence

Triangulation of evidence is critical for social assessors. The current hierarchy of evidence presented in the Introduction is a well recognised ISO-based concept. However, it is not appropriate for a Protocol that requires assessors to determine robust scores when the only evidence to be presented by stakeholders is oral and when in fact the most robust evidence stakeholders will present is oral.

Recommendation: In addition to the current explanation of hierarchy of evidence, qualify this with the recognition that there are types of oral evidence that can be considered as valid. It is the triangulation of evidence that an assessor should potentially consider, especially when assessing topics where stakeholder views of performance are critical.

Banarra thanks the IHA for this opportunity to contribute to what is a very exciting development for sustainability in hydropower. Banarra also thanks Hydro Tasmania for making Banarra's contribution possible.

Yours sincerely,



Richard Boele, Managing Director

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