

Submission from Eddie Smyth FIEMA, MSc, on scoping report for the Environmental Assessment of the emerging Draft Policy Statement on Mineral Exploration and Mining in Ireland

Introduction

This document represents the submission from Mr. Eddie Smyth, an international social and environmental expert in mining on the scoping report for Environmental Assessment of the emerging Draft Policy Statement on Mineral Exploration and Mining in Ireland.

Experience and Expertise in Mining

Eddie is a director of Intersocial and a social, environmental and resettlement expert with over 25 years' experience working in 37 countries in Africa, Asia-Pacific, Europe & South America. Eddie has experience in land access and resettlement planning, review, and implementation across all the key sectors, including private-sector/government-led, mining, oil & gas, hydropower, urban resettlement, conservation, and renewables to IFC/WB/EBRD/EIB standards. He has planned, implemented, managed, monitored, and reviewed land access and resettlement projects in 25 countries and conducted resettlement training in 18 countries. Eddie is fellow member of the Institute of Environmental Management and Assessment (IEMA), a member of the board of the International Association of Impact Assessment (IAIA), and a founding member of the Social Practice Forum, a group of social experts promoting good practices.

Eddie has project-managed the resettlement process on a number of large mining projects including living and working on the Newmont Ahafo Gold Mining Project in Ghana for three years (2008-2010). Eddie's company Intersocial is an active member of Geoscience Ireland.

Eddie has written extensively on impact assessment including preparing a Sustainable Wellbeing Framework to assess all of the social, environmental and economic factors which result from mining activities.

Sustainable Wellbeing Framework

Natural Resources - Biodiversity, Land & Water Bodies

- Natural resource assets (individual/common): forests, rivers, the ocean, cropland & pasture, etc
- Ecosystem services: crops, livestock, fish, wild foods, timber, freshwater, traditional medicines
- Biodiversity, genetic resources, etc,
- Tenure arrangements for land & common property
- Competing land-use demands & elite capture
- Minerals, materials and resource efficiency

People's Capacities, Abilities & Freedoms to Achieve Their Goals

- Fundamental human rights, health (including mental health) & food security
- Poverty, inequality and marginalization
- Capacity to work
- Household strengths & overlapping vulnerabilities (children, elderly, disabled)
- Education, skills & equal opportunities
- Equality, class/status, gender divisions & women's empowerment
- Aspirations, fears, expectations and anxieties
- Leisure, sports, recreation & volunteering
- Changing generational relationships & needs - gender/age
- Support from relationships, family, community, neighbourhood and civil society

Environment - Measuring Quality & Change

- Quality of Environment indicators for air, water, soil & vegetation
- Nuisance factors: noise, dust, vibration, blasting, flaring & light, traffic etc
- Effluents and waste management
- Landscape aesthetics & natural features
- Weather, emissions & climate change considerations
- Risk of natural/man-made disasters
- Recycling and the circular economy

Community/Social Supports & Political Context

- Family & social, traditional, economic & political networks, institutions & processes, governance & corruption
- Community cohesion, in-migration & out-migration
- Producer and business groups and linkages
- Government agencies, civil society, laws & human rights
- Safety, hazards, security & crime
- Media – radio, newspapers, television, internet and privacy
- Community perceptions of project, conflict & legacy issues
- Access to grievance/remedy mechanisms

Housing - Homes & Business

- Family home & plot - property price trends
- Farm buildings, business & rental structures
- Temporary housing
- Informal housing and speculative building
- Spatial planning and zoning

Culture - Traditions & Place Attachment

- Cultural & religious structures, ceremonies and festivals
- Shared customs, beliefs, values and taboos
- Place identity and attachment
- Archaeological sites & tangible & intangible heritage
- Creative expression: writing, language, music, dance, design, art, poetry, photography & oral history

Infrastructure - Services & Projects

- Utilities: water, energy, sanitation, etc.
- Public & social services: health, education, roads, drainage, rubbish collection, markets, policing, banking, communications/internet, agricultural extension services, religious, enterprise support, social, childcare, elderly & recreational facilities
- Quality of services & ongoing funding & maintenance arrangements
- Industrial developments associated with mining, oil & gas, renewable energy, economic zones, factories, etc.

Livelihoods - Assets/Activities & Economic Development

- Savings, debt, (micro)credit access and inflation
- Stores of food, seeds, tools, households goods and subsistence production
- Wage-based livelihoods: formal & informal employment, labour rights & working conditions, living wages, child & forced labour and local content
- Land & water-based livelihood activities: cropping, sharecropping, livestock, fishing, hunting & gathering & legal small-scale mining
- Enterprise-based livelihood activities: sale of goods & services, technology, rental properties, tourism and local procurement
- Illegal activities: corruption, drug sales, illegal mining, fishing, sex-work, theft/crime, speculation, smuggling & poaching
- Other livelihood supports: bartering, unpaid work, labour-sharing, caretaker, project compensation, remittances, welfare, pensions, dowries & gifts
- Business profit, tax revenue, monetization of economy and equitable access to benefits



Submission

I have reviewed the Scoping SEA and find that the assessment of social impacts could be enhanced to bring them in line with emerging international good practice or EU legislation on public information (Aarhus Convention).

The report presents the existing mining operations in the Republic of Ireland which are long-standing and operating without any significant issues. However, the report needs to recognize that any new mining projects are likely to face significant resistance from local communities. The proof for this can be seen in Northern Ireland with Dalradian's Gold Project which has faced massive public opposition and also the significant opposition to inland wind farms in Ireland.

The SEA scoping report narrowly defines social impacts in terms of mining in terms of Population and Human Health, Tangible Cultural Heritage and Landscape) as follows:

- Population and Human Health (PHH) - Objective 1: To protect human health.
- Cultural Heritage (CH) - Objective 8: Protect places, features, buildings and landscapes of cultural, historical archaeological or architectural heritage.
- Landscape (LandS) - Objective 9: Protect landscape character and visual amenity.

The key impacts on Population and Human Health (PHH) are listed in the report as follows:

- Continuation or intensification of existing exploration or mining activities and proximity to human presence;
- Impacts on drinking water quality;
- Impacts to recreational use of water (e.g. bathing, fishing);
- Health impacts and disturbance through issues such as dust, noise and visual impact;
- Loss of amenity usage and access;
- Impacts on tourism;
- Public participation in decision making and transparency in mineral exploration and mining activities;
- Potential employment opportunities (in particular in rural areas); and
- Consumer consumption and green economy.

With any new policy framework there is a need to consider emerging good practices in the EU and internationally on developing mining projects and addressing the sustainability impacts of these projects. The report does not mention the Aarhus convention and the rights of EU citizens to environmental information on significant projects.

The Sustainable Wellbeing Framework can be used to highlight the key impacts, positive and negative, from mining in Ireland. It is our position that the key social and environmental impacts of mining in Ireland have been underestimated in the draft SEA scoping report.

For example, the State of New South Wales in Australia has developed new guidance on Social Impact Assessment¹ which require developers to take into account key impacts on local communities. In a landmark decision by the Land and Environmental Court of New South

¹ <https://www.planning.nsw.gov.au/Policy-and-Legislation/Under-review-and-new-Policy-and-Legislation/Social-Impact-Assessment>

Wales the Chief Judge Preston refused permission for the Rocky Hill mining project on the basis of the following impacts²:

- Community: impact on emotional attachment to place and social tensions between those who support and who oppose the project
- Access to and use of infrastructure, services and facilities: including traffic and associated facilities
- Culture: including connections to land, places and buildings and cultural heritage
- Health and wellbeing: incorporating physical health (impacts from noise, night lighting, etc.) but also mental health and other social impacts
- Surroundings: including access to and use of ecosystem services, public safety and security and access to and use of natural and built environments, and aesthetic qualities and amenity.
- Personal and property rights: issues related to economic livelihood.
- Decision-making systems: the extent to which individuals and groups experience a say in decisions that affect their lives and if they have access to complaints, remedy and grievance mechanisms.
- Fear and aspirations: This is related to one or a combination of the above, or about the future of their community.

Chief Judge Preston from the Land and Environmental Court also said that the “distributive inequity” of the project (i.e. the just distribution of environmental benefits and burdens of an activity), was another Effect to be considered. This Effect was not limited to the current generation but extended across generations. The decision provides a systematic and comprehensive assessment of social impacts of the project, based on the Guideline.

The SEA scoping report should recognize that the Equator Principles (EPs) now apply to financing mining projects in Ireland. The Equator Principles is a risk management and decision-making framework, adopted by financial institutions, for determining, assessing, and managing environmental and social risk (E&S) in large (over US\$10m) development projects. Typically, the focus of the EPs has been on projects in less developed countries and emerging markets (which make up over 70% of international project finance debt). In these jurisdictions, there is typically higher E&S risk due to less robust E&S governance, regulatory and legislative systems.

However, with the latest iteration of the EPs (EP4 took effect on October 1, 2020), high-income ‘Designated Countries’ like the Ireland, United States, Canada, Australia and the United Kingdom may have new E&S obligations when seeking financing from EP financial institutions. These obligations may be assessment or mitigation measures beyond those typical to due diligence, environmental assessment, or authorisations necessary to demonstrate compliance with local law. This means where companies and project proponents in Designated Countries typically did not have to apply international standards in the past, they now must consider them as part of E&S risk assessments. While not new to projects in emerging markets, such new obligations for projects in Designated Countries could be in the form of human rights screening, labour and working conditions monitoring, climate change assessments, recognising impacts on Indigenous Peoples, and GHG and CO2 reporting and disclosure³.

² <https://sei.sydney.edu.au/opinion/rocky-hill-mine-refused-will-happen-land/>

³ <https://www.slrconsulting.com/news-and-insights/insights/esg-insights-why-equator-principles-4-ep4-can-now-impact-all-projects>

The new EU ESG reporting requirements also put new duties on industry to report on the full range of environmental and social impacts of mining projects.

Recommendations

I would advise the government to consider more closely the social impacts of projects in Ireland in line with evolving international case law and good practice. I would make the following recommendations:

- The SEA should refer to a broad range of sustainability impacts and not just 'environmental impacts'. These impacts should include those emerging from good practice internationally as presented in the NWS Guidelines for Social Impact Assessment⁴ which informed the Rocky Hill Mining Case.
- The SEA scoping report should recognize that Social Impact Assessment has become an established process for mining projects and should be developed for any proposed project in Ireland.
- The SEA scoping report should recognize the Equator Principles which incorporate the IFC Performance Standards on Environmental and Social Performance, EU ESG reporting requirements and other international standards that apply to mining projects.
- The Sustainable Wellbeing Framework provides a framework both to communicate the broad impacts from mining and also to inform a methodology to engage with communities in straightforward language that is easily understandable. The SW Framework has recently been used to develop a Community Guide to Social Impact Assessment in Australia (Munday, J. (2021).
- The development of new mines in Ireland will require a new approach to negotiating good neighbour agreements with affected communities in line with international good practice or these projects will face considerable conflict, litigation and rejection.
- I would advise the Irish Government to take a broader view of impacts of mining in Ireland and to conduct further research into good practices for agreement-making with affected communities.

⁴ <https://www.planning.nsw.gov.au/Policy-and-Legislation/Under-review-and-new-Policy-and-Legislation/Social-Impact-Assessment>