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The Social License

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about this report

This report summarises a multi-year research project into the concept of a social license to operate and Australia's coal seam gas (CSG) industry. The project was completed by researchers at the University of Melbourne and the Australian National University and was funded by the Australian Research Council Discovery Program (DP 140102779).

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SUMMARY

The social license to operate (SLO) is an expression that is commonly used to indicate a community's acceptance of a project, company or industry.¹ In practice the term has several different meanings, purposes or values:

- The social license can represent reciprocity, mutual respect and benefit for involved parties and can therefore be seen as essential;
- It may also be invoked by companies as a stamp of approval even when approval is limited or shaky;
- It may be dismissed as an unhelpful buzzword.

The social license is put to different uses:

- It can represent an agreement with an affected community/communities which brings with it the expectation that companies will behave in accordance with that agreement.
- It may be used as a tool to persuade third parties of the integrity (or lack of integrity) of a particular project, company or industry.

Community lies at the heart of the concept of a social license. Yet agreement on who belongs to a community and who is affected by a project, company or industry is often fraught. The aspiration to develop a social license rarely fits neat definitions of 'affected communities' whether these are defined by law or by geographical boundaries.

Communities can encompass people with very different values and visions of the future. So, the process a company engages in to develop a social license may generate conflict and division. This, in turn, shapes people's views of the value or otherwise of the social license.

The social license uncovers, but also sometimes obscures, tensions over whose voices count in debates about contentious issues.

¹ The social license to operate has also been used more broadly to cover policy and government practice. However, the focus of this project was on industry, company and projects.

Key questions arise when the social license is used in the context of a **democratic society**:

- Who determines when a social license has been granted? Communities often exert their authority by rejecting, questioning or accepting a project or proponent via the social license. Proponents regularly assert authority by defining the impact or benefit from a project and, by doing so, shaping community expectations. Who holds authority to grant or withhold the social license is not pre-defined and can change over time.
- What is the relationship between the law, social license and democracy? The short answer is that the relationship is complex. The social license can be viewed as 'undemocratic'; in this view, it is inferior to legal permissions or legal licenses. Alternatively, the demand that a project has a social license can also be viewed as an intrinsic right of individuals and communities in a democratic society.

The social license to operate can be a meaningful and helpful concept for defining expectations about the acceptable behaviours or impacts of a project, company or industry.

SLO is most helpful where effort is made by all major parties involved to achieve a shared understanding of what social, environmental and economic issues are at stake with a particular project, company or industry.

Use of the term can assist in upholding expectations and encouraging practice that stretches beyond compliance, to the extent that these underlying issues are captured by the SLO. This is enhanced when a robust understanding of the SLO is incorporated into community engagement processes that recognise and work with the diversity of values and visions within communities, across time.

Where SLO is used superficially as a means to claim acceptance with only limited detail, however, its potential value is tarnished.

SLO becomes little more than empty rhetoric.

Practical Insights

The social license to operate offers practical value when it is part of a robust conversation between communities and project proponents to make consequential progress on issues of community concern. It also has value when used to signal an end to that conversation with a proponent and to engage in a broader debate with government or the broader community.

The way a social license to operate (SLO) is defined and used in practice will depend on several factors:

- the specific nature of the **industry** concerned
- the characteristics of the **community/communities** involved
- relevant **legislative** frameworks
- **political** issues of salience.

Despite situation-specific differences, there are important practical insights that emerge from the research that shed light on the challenges commonly experienced by those concerned about SLO. Attention to these insights can contribute to the vibrancy and wellbeing of communities.

The insights below offer general insights for communities, industry and government:

General Insights

- SLO will mean different things to different people. There can be no assumption that everyone has the same understanding of what it means and whether it is important or not. For this reason, it is best to take time to be very clear about what is meant, ensuring that meaning is shared amongst all relevant parties. If this meaning is not desired or possible, it may be better to avoid the term altogether.
- The concept of community is vital to understandings of social license, and yet 'community' is not something easily defined by government, industry, or even by communities themselves. For this reason, who represents the community may be difficult, and contentious, to define.

Insights for Communities

- A new industry or project entering a community can pose considerable challenges to that community alongside offering new opportunities. It can test relationships, community cohesion and community priorities. So, the processes involved in developing an SLO can exacerbate those tensions and conflicts within communities. Decisions made by individual community members often have clear effects on neighbours and communities more generally, even if they are seen by those involved in that decision as a private agreement. To make the most of what the SLO offers it is as important to attend to internal community relationships and decisionmaking processes as it is to questions of how the community or individual members of that community engages with the project or industry
- The processes involved in developing an SLO can also help to open up conversations about what is important and what the future of a community may look like. This could include people explaining what an SLO means to them as a way of developing a shared language, expectations or visions for the future.
- SLO may cover a raft of promises from government and industry. Communities are advised to seek clarification and details of the processes and intended outcomes and impacts of any activity as well as a clear indication of the consequences should these promises not be met.
- The social license can be a way for communities to have a voice in industry or government developments in ways not available through regulatory processes, at least in democratic societies.
- Communities should be aware that stating their withholding or withdrawal of a social license may not be interpreted by proponents or government as the 'hard no', as intended.
 - Invoking a social license may instead signal to proponents or governments that they still have a chance to earn that license, prolonging a conversation that a community may wish to shut down.
 - Communities may wish to simply and clearly say 'no', as opposed to 'you have no social license.'

Insights for Industry

- Communities may place different values on and attach different meanings to the concept of a social license. The term alone does not convey one particular meaning and cannot simply be defined by one or other party to an agreement. For SLO to be useful, its meaning to each party must be understood. This includes a shared understanding within a company itself.
- The intended process of engaging with the community to explain the intentions of the company, to identify anticipated outcomes and respond to concerns over time is of utmost importance.
- For some the term SLO may be untrustworthy, irrelevant or even malicious. For this reason, it can be important to consider whether and how the term can be used to create space and draw attention to conversations with community members about issues poorly represented in regulation, business cases and approvals processes.
- Consider how community is defined. The way in which industry or government define a community (e.g. by Local Government Authority or project boundary) may not be the way a community defines itself. Be mindful that any project is likely to involve multiple communities.
- Industry's entry into a community may well be divisive. These divisions may create new or exacerbate pre-existing tensions. Further, an agreement that a company makes with one individual community member may well have broader consequences for the community as a whole. The industry may thus bear some responsibility for creating or deepening community division.
- Local employees are also members of the community. If industry activity creates division these employees are likely to suffer. If employees are prevented from speaking out, as they are representatives of the company, they are also prevented from speaking out as members of their community.

Insights for Government

- The social license can uncover tensions in government accountability and legitimacy. It can raise 'beyond compliance' concerns that, while not formally regulated, hold importance for community stakeholders to a degree requiring acknowledgment and, often, redress.
- The term social license may be seen by some people as irrelevant or even an abdication of government responsibility for industry impacts. In some cases its use may be perceived as either meaningless or adding to tensions and conflict between industry, government and community. The term should be used with clarity and caution.
- Government is often seen by community and industry to have conflicting and changing roles and interests. This includes the very definition of 'government'. Individuals may identify divergent levels of government as being responsible and may conflate regulators, public servants and elected politicians. Expectations about government responsibility may colour expectations about SLO.

About

Background

Industries, communities and governments are increasingly using the term 'social license to operate' (SLO), often to indicate approval of a project or activity. Yet the term's appropriateness and usefulness are contested and unclear. Between 2014-2018 the Australian Research Council (ARC) funded our researchers to conduct a critical evaluation of the concept.

We explored how social license is understood and experienced in conflicts between industry, government and communities in the case of Coal Seam Gas (CSG) in Australia. The CSG industry has promised economic benefits, including employment for communities and revenue for government, and an alternative to the environmental impacts of coal. At the same time, it has proven contentious in its impact on ground water, fugitive emissions,² and its role as a sustainable energy resource.

Conflicts have emerged between companies aiming to develop CSG projects, communities divided in their perspectives on the industry and between various levels of government that have a role in granting operational licenses, regulating the industry and representing their constituents.

While this project focused on CSG, the term SLO is used in many high impact industries, from wind farms to banking, agriculture to infrastructure. The conversations in this research concentrated primarily on social license in the context of CSG, coal and energy, generally. The lessons learned about SLO, however, are applicable beyond this industry.



PHOTO: FIONA HAINES

² Fugitive emissions are emissions of methane that leak from the infrastructure used to produce CSG (for example from drilling equipment, pipelines and so on).

Aims of the research

- 1) Provide a theoretically robust and empirically based understanding of what constitutes an SLO
- 2) Understand the value of an SLO within the context of a democratic society
- 3) Improve policy and practice in terms of community engagement, as well as government and company accountability, especially as it relates to SLO.

Method

We completed qualitative interviews with community members, landholders, representatives of community action groups, industry representatives and government employees directly engaged with the CSG industry in Australia. The 41 interviewees included prominent individuals in the CSG debate, scientists, public servants, consultants, and current and former company employees (speaking in their personal capacity), as well as those who owned land affected by the industry. The latter included those who strongly supported as well as those who were highly critical of the industry. We also drew on social media (twitter) analysis and other documents, including from energy companies, newspaper reports and policy documents to inform the interviews, questions and analysis.

Understanding the social license

SLO is used to signify communities' explicit or implicit acceptance of a project, company or industry.

The above suggests a general agreement about what the social license is. However, SLO does not have a single meaning, purpose or value.

Common representations of the SLO include:

- 1) **Shared values:** Here, SLO embodies common decency and reciprocity. It represents a commitment to mitigating or preventing negative impacts and harm and ensuring benefits are shared. In this context, SLO indicates mutual respect between a proponent/government and a community/communities.
- 2) **Superficial buzzword:** In this form SLO represents generally agreed values, including mutual respect and fairness. On closer interrogation, however, it is unclear what such an SLO really stands for. It is unclear who controls or brokers the SLO, including how it is granted or withdrawn.
- 3) **Stamp of approval:** Here, a claim by one party (usually the project proponent) to have the SLO might be countered by another party's claim (usually a community) that the SLO is withdrawn. Public claims to having an SLO could be made, even where key stakeholders feel it has not been granted, and vice-versa.

We found three main purposes or potential uses of the SLO:

- 1) **Agreement or quasi-contract:** When used this way, the SLO signals acceptance by affected community/communities with respect to company activity or the issue or policy in question. Here, SLO is granted (or claimed) based on the understanding that the proponent will behave in accordance with that agreement. This is a dominant but not universal view.
- 2) **Tool of persuasion:** Here, SLO is used to convince or shape the views of a third party (e.g. investors, government or broader society) about the integrity of the company, issue or policy in question. This usage of SLO is strategic and may include, or be perceived to include, deceit or manipulation. The power to claim whether a SLO is held or withdrawn is more important than the process or content of the SLO itself.
- 3) **Commitment to responsibility beyond compliance:** In this usage, SLO is a way for governments or regulators to ensure a party takes responsibility for impacts of their operations, policy or practices that sit outside the remit of the legal licensing process.

Building a social license: Process and challenges for process

The process of 'earning and maintaining' a social license involves at least two parties working towards acceptable conditions for approval of a project or policy. This includes expectations that proponents:

- provide information in a meaningful way
- demonstrate mutual respect
- listen meaningfully
- value local knowledge and the expertise that resides within communities
- are responsive and transparent.

The process of establishing an SLO assumes that there is an identifiable community who can grant approval. But the process itself can also generate conflict within a community undermining the cohesion necessary to building SLO. For example:

- Monetary benefits that come out of negotiations might differ between landholders, with offers made leading to community division or inequitable distribution of benefits.
- Conversations might centre on harm or benefits important to some parts of the community but not others.
- The same company initiative could be viewed differently. For example, sponsorship of the local football team may be seen as bribery by some or goodwill by others. Local employment with the proponent could be seen as boosting the local economy or as an act of disloyalty to the community.

SLO is dynamic, not static

SLO is not fixed. It is dynamic and changes over time. This means that individuals' interpretations of the meaning and purpose of the SLO are also dynamic and may change over time, depending on the context in which the SLO is used and experienced.

In all instances, different parties may diverge in their opinion about the status of an SLO; that is, whether it is granted, under negotiation or withheld. For instance, those physically nearest to a project and who are most directly affected may reject a claim for legitimacy by a proponent, using 'withdrawal' of an SLO as a means for rejection. At the

same time, a proponent may claim that the SLO for a project has been granted on the basis of acceptance by other parts of the community. This situation highlights the importance of taking time to define a community/communities and for meaningful dialogue to be held with all major parties to determine a shared meaning of SLO and expectations for its use.

Why do communities engage with SLO? Visions for the future

People's different values drive their visions for the future, including that of their children, grandchildren, community and beyond. These visions often inform their engagement in the processes involved in negotiating an SLO. Visions for the future help define what key issues need to be prioritised and addressed. This might include one or more of the following:

- the importance of a long-term, sustainable economy for a town or area
- identifying specific industries as critical to a town or area (e.g. agriculture, resources)
- ensuring meaningful employment for local people
- environmental sustainability, including health of water systems
- concerns for intergenerational belonging
- the importance of preserving the identity or character of a local area.

People's different perspectives on these and other important issues shape their imagined futures. These visions for the future consequently shape how they view the role of an SLO and the negotiation process necessary to reach or reject it. It is important to consider visions for the future when discussing SLO.

Interpretations of the SLO are shaped by democratic values and differences between what constitute those values. These include views about:

- the role of legal authorities
- who has authority when conflict arises
- who represents invested groups.

SLO and community decision-making in democratic societies

The SLO uncovers, but also sometimes obscures, tensions around whose voices count in democratic debates about contentious issues. Interpretations and experiences of the SLO are informed by issues of authority, control and representation between industry, community and government.

Thinking about how SLO operates in democratic contexts raises three key questions:

1) Who gets a voice in communities?

Social license to operate offers democratic value for communities to express their views on a project, company or industry. However, there are often differences of opinion about who 'legitimately' represents a community/communities, especially around contentious projects/issues. This also relates to who brokers, grants or denies the SLO. For example, should those who get a voice be:

- 1) Only those directly affected by an activity or policy (e.g. those living within a project boundary)?
- 2) Defined only by legislation and regulations (i.e. official guidance about who is required to be consulted or who is likely to suffer potential harm)?
- 3) Those identified from within a community as being individuals or groups most affected (e.g. individuals/groups represented through local surveys done by community organisations to demonstrate the perspectives of the community)?
- 4) Those who have been in an area the longest, or who have a claim to intergenerational or indigenous belonging (past, present, future)?

2) Whose voices have more power?

Even when views about who can have a voice are decided, the next question is whose voices have, and should have, more authority. Social license to operate regularly uncovers tensions around whose views are, or should be, most influential in agreements. This can take place in a context where governments often appear reluctant to involve themselves in more formal discussions or negotiations over the SLO, although they often use the term. This 'casual' usage influences perceptions that governments are deflecting their responsibility for decision-making about a project, policy or activity.

3) What is the relationship between SLO and the law?

There are different interpretations of how SLO is related to the law. For some individuals, the law is the defining feature of democracy. From this perspective, SLO does not have standing or authority and may even be interpreted as being undemocratic (i.e. outside the law). In this view, because legal licenses grant all necessary permissions to undertake activities, SLO is irrelevant and may be seen as a distraction or a way to manipulate legal rights and responsibilities.

For others, democracy is broader than the law. For these individuals, SLO gives them a voice to express concerns not covered by the law or where the law is perceived of as unjust and unfair. From this perspective, SLO enhances democracy. It can encourage companies to go beyond compliance with legal requirements and to consider the impacts of their activities not covered by the law. In this view, legal compliance may be seen as a minimum standard or even as an obstacle to a company or government responding to community demands or meeting community expectations. This may especially be the case where one party interprets the law as the defining feature of democracy—and, by extension, as all requirements being met—but where another party interprets their democratic rights as being broader than the law.

Implications:

Improving policy and practice

Social license to operate holds potential to support communities faced with a decision about a particular project, company or industry. It can be used to indicate that a project, policy or proponent is not acceptable or legitimate. SLO can be linked to a community's aspirations or visions for the future and used as a guide towards supporting achievement of that vision. It can delineate what a proponent should or should not do. SLO can act as a barometer, measuring the standing of a project, policy or proponent on a scale of acceptance. Or it can be more clear-cut; granted or rejected.

The meaning, purpose and value of SLO differs by context. Even though the term is commonly used by companies, government, communities and the media, it is not necessarily defined, used or valued in the same way by different groups. This situation is complicated by a widespread assumption that 'we all know what it means'. SLO is pervasive but not preordained.

SLO may mask the issues of concern that really need to be addressed, especially where it is used uncritically. In other words, if the term is to be used to guide negotiations between companies and communities, it is very important to devote the time and effort necessary to ensuring that all parties involved in a dialogue concerning SLO have reached a shared understanding of what it means.

The SLO may mask points of contention if it is simply used to indicate a company or project has community approval.



SLO relates to several common points of conflict and tension around:

- Who has the authority to 'issue' or 'revoke' a license (the 'broker')
- The relationship between the SLO and the law/legal compliance
- The nature of impacts or harm generated by a project/policy, and who is or is not affected by those
- How community/communities are defined
- Who benefits from a project/policy and who does not.

The emphasis on the need for an SLO and its relationship to democratic societies is varied. SLO can:

- Enhance democracy by creating new spaces to discuss important concerns and rules governing business activity
- Limit democracy by diminishing the role of elected representatives or the law
- Emphasise the need for everyone to become 'experts' in regulation of a particular industrial process. Understanding regulation can be important but it can also overlook the human and relational side of a vibrant democratic society.

A social license to operate offers the potential to enhance democratic accountability. It can foster discussion of important issues, especially those related to industrial activity but which may not be covered in regulation.

SLO can help to uncover tensions between stakeholders, especially related to authority, control and legitimacy. These may be tensions between groups, but also within. Individuals commonly bring multiple and sometimes contradictory loyalties, identities and perspectives to an issue. They can also have different views on authority and belonging but share a vision for the future. Conversations about SLO require mutual respect and a willingness to work constructively through difficult issues. These conversations may occur through many different media, including in-person or online.

SLO offers a means to open up difficult conversations, and to progress agreement.

Negotiating an SLO can uncover and encourage conversations and robust processes that can assist communities in engaging with contentious or highly impactful projects or policies. These conversations may happen between communities and industry, between communities and government, between communities, industry and government, or even within or between communities themselves. Shared aspirations of working towards an SLO can encourage listening, mutual respect and ongoing constructive conversations.

SLO can be used to claim power and authority or a right to a voice.

SLO also offers communities a means of claiming or reclaiming authority and control through their granting or withdrawing an SLO. This can be an important role for the SLO. It can provide the means to open up new conversations with different people and groups. However, this process can also be accompanied by significant levels of social conflict that can have lasting effects.

SLO can be used to close down or open up conversations and dialogue. It may be used:

At the start of a conversation

SLO may be used to understand the expectations of the impacts and benefits of a project. This may involve working through who gets a say and understanding people's visions for the future.

To progress a conversation

SLO may be used to draw attention to issues of concern and to monitor behaviours/actions, including delivering benefits or mitigating impacts. It can support agreed processes for doing so.

To end a conversation or start a new one

The phrase, 'You don't have an SLO', can be powerful. It may be used to end a conversation with project proponents and start a conversation with government or the broader public.

SLO in a CSG Context

About SLO as it is discussed in this report

SLO is inseparable from its context. This report refers to findings about SLO in the context of coal seam gas. SLO will hold different meanings where it is used in other contexts, such as coal, wind or solar farms, agriculture or in the banking industry. In CSG, for example, uncertainty about unfamiliar technologies being used and their impacts played a major role in many communities' reluctance to accept the industry. Communities wanted reassurance about the safety of the technology and proponents' abilities to prevent environmental damage. But proponents' promises about their ability to prevent or mitigate such damage were largely not trusted. This made developing an SLO difficult and sometimes impossible. CSG also encompasses political, economic and social issues, beyond technological and environmental concerns. In the case of the CSG industry, the question of whether to grant a project or the industry an SLO needed to consider the gamut of political, economic, social and environmental concerns.

Contacts and resources

For more information about this report and to find out more:

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