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ARTICLES

Social Impact Assessment: Treacherous Waters for Local Communities – *Alison Ziller*

Social impact assessment (SIA) theory promises better outcomes from new projects and developments, a promise implicit in many SIA guidelines. The theory operates a dual premise – foreseeable adversities are avoided and social benefits are delivered. But in practice, procedural and substantive obstacles built into multiple steps in the NSW planning system stand in the way. If one obstacle fails, there is another waiting to take effect. This system of multiple impediments speaks of regulatory capture. At the same time, many proposed benefits are no more than hypothetical options attached to the coattails of a development. Actual delivery of tangible and durable social benefits for a local community is rare. In sum, an unavoidable barrage of obstacles and a reluctance to provide ancillary social benefits await local communities attempting to rely on the illusory promise of social impact assessment. 167

Reforming s 36 of the Aboriginal Land Rights Act 1983 (NSW) to Deliver Procedural Justice in Land Use Planning – *Bethany Farah*

Section 36 of the *Aboriginal Land Rights Act 1983* (NSW) has become a procedural mechanism of denial rather than restitution, perpetuating planning exclusion and undermining Aboriginal land justice. Despite its original intent to return unused Crown land, s 36 enables indefinite delay, speculative refusals, and opaque decision-making by the Crown. Through analysis of landmark claims including *Minister Administering the Crown Lands Act v Illawarra Local Aboriginal Land Council*, *NSW Aboriginal Land Council v Minister Administering the Crown Lands Act*, and *Minister Administering the Crown Lands Act v NSW Aboriginal Land Council*, this article illustrates how discretionary governance frustrates justice. It proposes a legislative amendment titled s 36C, introducing mandatory timelines, evidentiary safeguards and accountability mechanisms to restore the Act's original purpose. The reform aims to strengthen land governance through procedural fairness, transparency, and Aboriginal self-determination. 176

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