



8 December 2023

Northern Territory Environment Protection Authority
Level 1, Arnhemica House
16 Parap Road
PARAP NT 0820

Submitted via online consultation portal

Dear Sir / Madam

SUBMISSION: SUNCABLE'S AAPOWERLINK – ADDITIONAL INFORMATION

The Northern Land Council (NLC) refers to its submission dated January 2023 on SunCable's Supplementary Environmental Impact Statement for the AAPowerLink project published on 7 December 2022 (**Submission**), enclosed for your convenience. The Submission focused on deficiencies in the Social Impact Management Plan (SIMP), being Appendix 3.2 of the Supplementary Environmental Impact Statement.

The NLC considers that its concerns have not yet been addressed by either SunCable or the NT Environment Protection Authority (NT EPA). SunCable have explained to the NLC that it intends to update the SIMP with input from the NLC and traditional owners however this has not yet been facilitated. The NLC has also not yet received a response from the NT EPA regarding its Submission. Further, the NT EPA's direction dated 19 March 2023 did not include any request of SunCable for further information in relation to the SIMP. The NLC requests that the NT EPA address the substance of the NLC's concerns in its assessment of the project, and ensure an updated SIMP is required as part of the environmental approval.

Potential social impacts

The NLC considers that having a robust SIMP is essential given the nature of the social impacts identified in SunCable's Social Impact Assessment (Appendix I of the Environmental Impact Statement dated March 2022) including the following which are of high-risk:

- Aboriginal and other community groups feel disempowered;
- reduced community cohesion and resilience;
- reduced sense of public safety and wellbeing;
- reduced sense of place through industrialisation of the landscape and changed land use;
- loss of cultural heritage due to damage, or reduced access, including fears and anxieties of damage to sites or custodians' responsibilities; and
- reduced affordability and availability of public and private accommodation, particularly in Tennant Creek, Elliott and Katherine as workers or families seek local housing.

The NLC submits that, while the SIMP should be informed by engagement with the NLC and traditional owners, key requirements and guardrails for the SIMP should be reflected in assessment materials and any approval, and consequently be captured and enforced by the associated regulatory framework.

Summary of the NLC's concerns with the SIMP

As detailed in the Submission, the NLC is concerned that:

- The SIMP does not cover processes for addressing:
 - unanticipated impacts that may emerge; and
 - how to address impacts that are more severe than expected or if management strategies are unsuccessful or ineffective.
- The SIMP does not include details on monitoring, review and reporting frameworks.
- The SIMP does not include robust and relevant review mechanisms, nor are there clear allocation of roles and responsibilities.
- The SIMP refers to strategies and plans that are yet to be drafted.
- The indicators relied upon to measure social impacts are not adequate or sufficient. Further the targets lack quantitative dimension.
- References to timeframes in the SIMP are too general to be effective at keeping SunCable accountable.
- The SIMP fails to comply with International best practice guidelines.

We would be pleased to provide further information to the EPA, as you consider useful.

Please contact our Sophie McLeod, lawyer at McLeoS@nlc.org.au or on 0438 642 291 if you have any questions.

Yours sincerely



Joe Martin-Jard
Chief Executive Officer
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Encl.



**NORTHERN
LAND COUNCIL**

**Submission to the Northern Territory Environment
Protection Authority on**

**SUN CABLE'S AUSTRALIA-ASIA POWERLINK:
SUPPLEMENTARY ENVIRONMENTAL IMPACT
STATEMENT**

January 2023

1. Executive Summary

This submission focuses on the Social Impact Management Plan (**SIMP**) submitted by AAPowerlink Australia Assets Pty Ltd (**Sun Cable**) in relation to its Australia-Asia PowerLink Project (the **Project**), included as Appendix 3.2 of Sun Cable's *Supplementary Environmental Impact Statement* dated November 2022 (**Supplementary EIS**).

This submission relates to the following matters on which the Northern Territory Environment Protection Authority (**NT EPA**) invites comment:

- the proposed avoidance, mitigation, management of offset measures for reducing or controlling the potential environmental impacts and risks;
- the proposed methods for monitoring and assessing the environmental performance of the activity; and
- information that is inaccurate or missing.

The NLC notes that the definition of environment under the *Environment Protection Act 2019* (NT) includes physical, biological, economic, cultural and social aspects.

The NLC submits that the SIMP is deficient and fails entirely to address the NT EPA's requirements for an SIMP, as set out in the NT EPA's *Guidelines for the Preparation of an Economic and Social Impact Assessment*.¹ The deficiencies of the SIMP include:

1. The SIMP does not cover what Sun Cable will do if unanticipated impacts emerge, if impacts are more severe than expected, or if management strategies are unsuccessful.
2. The SIMP does not include details on the monitoring, review and reporting framework or how it will operate.
3. The SIMP does not include robust and relevant review mechanisms – many of the specific review mechanisms contained in the SIMP bear little relation to the social impact to which they are linked, and some simply do not make sense.
4. There is no clear allocation of roles and responsibilities in relation to key monitoring and review mechanisms.
5. Key components of Sun Cable's response to anticipated impacts do not currently exist and so it is impossible to assess the adequacy of Sun Cable's management strategies. These components include a Community Investment Strategy, Stakeholder Engagement Strategy, and Regional Aboriginal Legacy Strategy.
6. Many of the indicators that are to be used to measure social impacts actually relate to monitoring or management activities, not to social impacts. There are also inadequate measures of the effectiveness of management strategies included in the SIMP. Many of the measures to be used to gauge the effectiveness of management strategies actually measure activities (i.e. number of employees completing training modules), and some of these measures appear irrelevant to the strategies concerned.

¹ NTEPA, 2013, *Guidelines for the Preparation of an Economic and Social Impact Assessment*, Darwin, accessed at https://ntepa.nt.gov.au/data/assets/pdf_file/0006/287430/guideline_assessment_economic_social_impact.pdf

7. The targets included in the SIMP, which should be designed to measure failure or success, lack any quantitative dimension and in most cases only restate the key performance indicator to which they relate.
8. References to timeframes in the SIMP are so general as to be irrelevant in gauging the feasibility and relevance of proposed actions or in holding Sun Cable accountable for delivery of management activities.

The SIMP also fails to comply with International Association for Impact Assessment (IAIA) best practice guidelines² that Sun Cable claims informed its preparation.

Given the fundamental deficiencies in the SIMP, the NLC submits that the NT EPA should not make any recommendation regarding approval of the Project until Sun Cable has completed a new SIMP that remedies the deficiencies outlined in this submission and which at least meets the NT EPA's requirements for an SIMP.

2. About the Northern Land Council

The Northern Land Council (NLC) was established in 1973 and following the enactment of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (**Land Rights Act**), the NLC became an independent statutory authority responsible for assisting Aboriginal people in the northern region of the Northern Territory (NT) to acquire and manage their traditional lands and waters. The Land Rights Act combines concepts of traditional Aboriginal law and Australian property law and sets out the functions and responsibilities of the Land Councils as follows:

- identify relevant traditional Aboriginal owners and affected people;
- ascertain and express the wishes and opinions of Aboriginal people about the management of, and legislation in relation to, their land and waters;
- consult with traditional Aboriginal owners and other Aboriginal people affected by proposals;
- negotiate on behalf of traditional Aboriginal owners with parties interested in using Aboriginal land or land the subject of a land claim;
- assist Aboriginal people to carry out commercial activities;
- obtain traditional Aboriginal owners' informed consent, as a group;
- assist in the protection of sacred sites; and
- direct an Aboriginal Land Trust to enter into any agreement or take any action concerning Aboriginal land.

In 1994 the NLC became a Native Title Representative Body under the *Native Title Act 1993* (Cth), whose role and functions are set out under Part 11, Division 3 of the Act.

The NLC represents more than 50,000 Aboriginal people and assists its constituents by providing services in output areas including land, sea and water management, land acquisition, community development, Aboriginal land trust administration, native title services, advocacy, information and policy advice.

² International Association for Impact Assessment, 2022, *International Best Practice Principles: Impact Assessment Follow-up*, IAIA Special Publication Series No 6, accessed at https://www.iaia.org/uploads/pdf/SP6_22%20Follow%20up_converted.pdf

This submission is based on the NLC's functions and its long history and experience working with Aboriginal people in the NT.

3. Purpose and requirements for an SIMP in the NT

According to the NT EPA Guidelines, a SIMP should contain:

- mitigation and management strategies for the identified risks including a register of agreed activities and commitments;
- monitoring, reporting and review mechanisms; and
- mechanisms to resolve new and emerging issues as they transpire and amend the ESIMP [Economic and Social Impact Management Plan].³

The NT EPA states that:

*An ESIMP is action focussed, and records mitigations for potential negative effects, as well as activities to capitalise on potential benefits. There should be clear allocation of roles and responsibilities, including statement of commitments where ever possible ... The ESIMP should contain activities needed to resolve issues and develop mitigation strategies. Actions nominated to resolve issues should be accompanied by progress measures and timeframes in the ESIMP, and be reported on as project implementation proceeds.*⁴

A SIMP plays two critical roles in addressing social impacts:

1. It outlines the management strategies and actions that are intended to minimise negative social impacts and maximise positive social effects.
2. It sets out how the project operator will establish:
 - a) whether expected impacts have eventuated;
 - b) whether unanticipated impacts have occurred;
 - c) whether planned management strategies have been effective; and
 - d) what action will be taken to address unanticipated impacts, any failures to implement management strategies, or any deficiencies in management strategies that have been implement.

This second function of a SIMP is described as 'Impact Assessment Follow-Up'. It is such an important component of the Environmental Impact Assessment / Social Impact Assessment system that the main international professional body for impact assessment, the IAIA, publishes separate Best Practice Principles for Impact Assessment (IA) Follow-Up.⁵

³ Section 6.5, *Guidelines for the Preparation of an Economic and Social Impact Assessment*, Darwin, Northern Territory Environment Protection Authority (NTEPA), 2013, accessed at https://ntepa.nt.gov.au/_data/assets/pdf_file/0006/287430/guideline_assessment_economic_social_impact.pdf

⁴ Section 6.5.1, *Guidelines for the Preparation of an Economic and Social Impact Assessment*, Darwin, Northern Territory Environment Protection Authority (NTEPA), 2013, accessed at https://ntepa.nt.gov.au/_data/assets/pdf_file/0006/287430/guideline_assessment_economic_social_impact.pdf

⁵ International Association for Impact Assessment, 2022, *International Best Practice Principles: Impact Assessment Follow-up*, IAIA Special Publication Series No 6, accessed at https://www.iaia.org/uploads/pdf/SP6_22%20Follow%20up_converted.pdf

4. Social Impacts of the Project

Sun Cable expects that its Project could have significant social impacts on Aboriginal peoples and communities. Sun Cable believes all these impacts can be mitigated through application of appropriate management strategies. The social impacts anticipated by Sun Cable were identified in the Social Impact Assessment (SIA) for the Project,⁶ and strategies for managing these impacts are outlined in the SIMP for the project. In discussing the impacts identified by Sun Cable, the NLC is not endorsing Sun Cable's findings regarding the nature of social impacts or their potential severity, but only setting out the basis on which Sun Cable has developed its SIMP.

Table 1 identifies several social impacts from the SIMP (column 1), the 'impact rating' the SIA/SIMP assigns to each without mitigation (column 2), and the 'impact rating' it assigns to them after application of management strategies designed to lessen their impact (column 3). Table 1 is illustrative, designed only to indicate the type and possible severity of social impacts that are involved. Sun Cable's SIMP includes a comprehensive listing of social impacts that Sun Cable anticipates.

Table 1: Sample of social impacts and 'impact rating' with and without mitigation

1. Impact identified in SIMP	2. Impact rating without mitigation	3. Impact rating with mitigation
Aboriginal and other community groups feel disempowered ⁷	High	Medium
Reduced community cohesion and resilience ⁸	High	Medium
Reduced sense of public safety and wellbeing ⁹	High	Medium
Reduced welfare of girls and young women due to exploitation by workers, sexual liaisons, sexually transmitted diseases and unwanted pregnancies ¹⁰	Medium	Low
Reduced sense of place through industrialisation of the landscape and changed land use ¹¹	High	Medium
Reduced ability to engage in traditional hunting, fishing, camping, foraging, gathering art materials, bush medicines or other livelihood activities ¹²	Medium	Low
Loss of cultural heritage due to damage, or reduced access, including fears and anxieties of damage to sites or custodians' responsibilities ¹³	Catastrophic	High
Damage to features with cultural significance, such as	High	Medium

⁶ Appendix I – Social Impact Assessment, Australia-Asia PowerLink Environmental Impact Statement, prepared by Jane Munday and Claire Butler (True North Strategic Communication), March 2022

⁷ Table 3-3: Strong Voice: Regional Aboriginal Legacy Strategy, Social Impact Management Plan, November 2022, p 29

⁸ Table 3-4: People and Communities: Social Cohesion and Lifestyle, Social Impact Management Plan, November 2022, p 34

⁹ Table 3-4: People and Communities: Social Cohesion and Lifestyle, Social Impact Management Plan, November 2022, p 35

¹⁰ Table 3-4: People and Communities: Social Cohesion and Lifestyle, Social Impact Management Plan, November 2022, p 35

¹¹ Table 3-4: People and Communities: Social Cohesion and Lifestyle, Social Impact Management Plan, November 2022, p 36

¹² Table 3-4: People and Communities: Social Cohesion and Lifestyle, Social Impact Management Plan, November 2022, p 36

¹³ Table 3-5: Cultural Identity: Cultural Heritage and Sacred Sites, Social Impact Management Plan, November 2022, p 42

1. Impact identified in SIMP	2. Impact rating without mitigation	3. Impact rating with mitigation
waterholes, access to groundwater for livelihoods, or loss of water dependent species ¹⁴		
Reduced enjoyment of human rights, in particular the right of vulnerable Aboriginal people and communities to free prior and informed consent, gendered impacts ¹⁵	Medium	Low
Reduced affordability and availability of public and private accommodation, particularly in Tennant Creek, Elliott and Katherine as workers or families seek local housing ¹⁶	Catastrophic	High

5. Assessment of Sun Cable's SIMP

1. The SIMP does not cover what Sun Cable will do if unanticipated impacts emerge, impacts are more severe than expected, or if management strategies are unsuccessful.

By failing to cover what Sun Cable will do if unanticipated impacts emerge, if impacts are more severe than expected, or if management strategies are unsuccessful, the SIMP entirely fails to meet the NT EPA's requirement that a SIMP contain 'mechanisms to resolve new and emerging issues as they transpire'.¹⁷ It also fails to address the requirement which Sun Cable included in the SIMP that Sun Cable submitted as part of the Draft Environmental Impact Statement in March 2022 (**Preliminary SIMP**), that a SIMP should include 'how shortfalls will be addressed – for example if a target is not being met or an impact is being inadequately managed, the SIMP should indicate steps to address and report on the shortfall'.¹⁸ This failure alone would justify rejection of the SIMP. The absence of any attention to addressing impacts revealed by monitoring is highlighted by the way the SIMP deals with one of only two impacts that, if not mitigated, the SIA rates as 'Catastrophic' (see Table 1), which is 'Reduced affordability and availability of public and private accommodation, particularly in Tennant Creek, Elliott and Katherine as workers or families seek local housing'. The 'review mechanism' in relation to this impact is:

- Tracked financial resources invested in housing, social and transport infrastructure, delivered in collaboration with local authorities
- Tracked workforce in the workers' camp and short-term accommodation elsewhere
- Refine quantitative targets (with a timeframe) to monitor mitigations on infrastructure and social investment.¹⁹

¹⁴ Table 3-5: Cultural Identity: Cultural Heritage and Sacred Sites, Social Impact Management Plan, November 2022, p 42

¹⁵ Table 3-5: Cultural Identity: Cultural Heritage and Sacred Sites, Social Impact Management Plan, November 2022, p 42

¹⁶ Table 3-11: Infrastructure and Services: Infrastructure and Social Investment, Social Impact Management Plan, November 2022, p 68

¹⁷ Section 6.5, *Guidelines for the Preparation of an Economic and Social Impact Assessment*, Darwin, Northern Territory Environment Protection Authority (NTEPA), 2013, accessed at

https://ntepa.nt.gov.au/data/assets/pdf_file/0006/287430/guideline_assessment_economic_social_impact.pdf

¹⁸ Section 2.1, Appendix J – Social Impact Management Plan Australia-Asia PowerLink Environmental Impact Statement, prepared by True North Strategic Communication, March 2022

¹⁹ Table 3-11: Infrastructure and Services: Infrastructure and Social Investment, Social Impact Management Plan, November 2022, p 71

This review mechanism does not even acknowledge that such management strategies might not be effective, let alone indicate how Sun Cable might respond to any such shortcoming.

2. The SIMP does not include details on the monitoring, review and reporting framework or how it will operate.

The SIMP's deficiency in responding to unexpected impacts or deficiencies in management strategies is also highlighted in Section 3.6 'Monitoring, Reporting and Review'. In relation to monitoring, evaluating and responding to social impacts this section states:

A monitoring and reporting framework will be implemented to set monitoring timeframes, measure the success of mitigations and enhancement actions, track changes against indicators and communicate results to Project proponents, stakeholders, and the public.

This essentially is a commitment by Sun Cable to develop critical components of an SIMP, as defined by the NT EPA, at some unspecified time in the future. There is no indication in the SIMP that these components currently exist, as required by the NT EPA. There is again no indication of how unanticipated impacts or deficiencies in management strategies would be addressed.

The Preliminary SIMP indicates that, to meet the NT EPA requirements, the SIMP:

- provides measurable and defined targets and actions for monitoring, reporting, auditing and review progress, with clear numbering, wording and commitments to locations, timing, frequency, method, and responsibilities;
- commits to measure results and report these findings via the Project website;
- includes how shortfalls will be addressed – for example if a target is not being met or an impact is being inadequately managed, the SIMP should indicate steps to address and report on the shortfall.²⁰

Notably, this text is not replicated in the revised SIMP included in Sun Cable's Supplementary EIS which is the subject of this submission.

3. The SIMP does not include robust and relevant review mechanisms – many of the specific review mechanisms appear to bear little relation to the impact to which they are linked, and some simply do not make sense.

By way of example, the 'review mechanism' for 'Healthy Country: Biodiversity and the Environment' is:

- Refine quantitative targets (with a timeframe) to monitor mitigations
- Using stakeholder management software to track interactions with civil society groups impacted by the Project
- Implementation of the Construction Sustainability Plan.²¹

The first point does not make sense – how is it possible to monitor mitigations by refining targets? (One might refine targets as a result of monitoring mitigation). In relation to the second point, how can tracking interactions with civil society groups (essentially a quantitative data set) reveal anything

²⁰ Section 2.1, Appendix J – Social Impact Management Plan Australia-Asia PowerLink Environmental Impact Statement, prepared by True North Strategic Communication, March 2022

²¹ Table 3-6: Healthy Country: Biodiversity and the Environment, Social Impact Management Plan, November 2022, p 49

about the efficacy of measures to address impacts on ‘healthy country’? Finally, implementation of the Construction Sustainability Plan tells us nothing about the efficacy of that plan. Such a plan may be implemented in its entirety and still not had a positive impact because it was poorly designed in the first place.

It is unclear what Sun Cable means by the phrase ‘Refine quantitative targets (with a timeframe) to monitor mitigations’ and it is repeated on numerous occasions under the heading ‘Review Mechanism’²². The repetition of this phrase indicates the lack of care, attention and resources devoted to completion of what is a key component of the SIMP. In addition, many review mechanisms say little more, in addition to this phrase, other than that a review will occur. For example, in relation to impacts for ‘Economies and Jobs: Local Content’, the other components of the review mechanism are:

- Regular review of technical assistance programs (for local businesses) in alignment with areas relevant to the local economy.
- Annual Territory Benefit Plan review.²³

The absence of robust and relevant review mechanisms constitutes a fundamental failure of the SIMP.

4. There is no clear allocation of roles and responsibilities in relation to key monitoring and review mechanisms.

The NT EPA’s Guidelines indicate that ‘[t]here should be clear allocation of roles and responsibilities’ within a SIMP,²⁴ and the Preliminary SIMP mentioned the need for clarity on ‘locations, timing, frequency, method, and responsibilities’.²⁵ The desired clarity on responsibilities is entirely absent from the discussion of review mechanisms in the SIMP (November 2022). For instance, the SIMP calls for ‘Monitoring and tracking mechanisms [to be] in place to verify that ILUA agreements are fulfilled’.²⁶ No indication is provided as to who is responsible for this work, how it will be funded, or how frequently it will be undertaken. Similarly, there is a call for ‘Monitoring mechanisms to track the benefits of the Community Investment Strategy’.²⁷ Again, there is no indication of what these mechanisms should be, who will be responsible for implementing them, or how frequently the monitoring will occur.

5. Key components of Sun Cable’s response to anticipated impacts do not currently exist and so it is impossible to assess the adequacy of Sun Cable’s management strategies.

Another fundamental problem with the SIMP is that key components of Sun Cable’s response to anticipated impacts do not currently exist. This applies for example to a Community Investment Strategy,²⁸ Stakeholder Engagement Strategy,²⁹ Regional Aboriginal Legacy Strategy,³⁰ and

²² Social Impact Management Plan, November 2022, e.g. pp. 55, 61, 65, 71.

²³ Table 3-7: Economies and Jobs: Local Content, Social Impact Management Plan, November 2022, p 55

²⁴ Section 6.5.1, *Guidelines for the Preparation of an Economic and Social Impact Assessment*, Darwin, Northern Territory Environment Protection Authority (NTEPA), 2013, accessed at https://ntepa.nt.gov.au/_data/assets/pdf_file/0006/287430/guideline_assessment_economic_social_impact.pdf

²⁵ Section 2.1, Appendix J – Social Impact Management Plan Australia-Asia PowerLink Environmental Impact Statement, prepared by True North Strategic Communication, March 2022

²⁶ Table 3-3: Strong Voice: Regional Aboriginal Legacy Strategy, Social Impact Management Plan, November 2022, p 32

²⁷ Table 3-2: Strong Voice, Stakeholder Engagement Strategy, Social Impact Management Plan, November 2022, p 26

²⁸ Social Impact Management Plan, November 2022, pp 20, 24, 70

²⁹ Section 3.2.1, Social Impact Management Plan, November 2022, p 18

³⁰ Section 3.2.2, Social Impact Management Plan, November 2022, p 27

'engagement materials for culturally diverse communities',³¹ all of which are yet to be developed. It is impossible to assess the adequacy of Sun Cable's strategy for managing impacts in the absence of these critical components.

6. Many of the indicators that are to be used to measure social impacts actually relate to monitoring or management activities, not to social impacts.

A further major issue is that the SIMP fails to provide a basis on which to establish the nature and extent of the social impacts that eventuate because many of the indicators the SIMP uses relate to activity rather than impacts, and fail to measure social impacts directly. Many examples can be cited. For instance, in relation to possible negative impacts on 'Social Cohesion and Lifestyle', one measure is 'Completion of the Health, Safety and Environment (HSE) and cultural awareness training Modules', with the relevant target being 'Number and/or proportion of contractors and employees who have successfully completed Health, Safety and Environment (HSE) and cultural awareness training modules'.³² Knowing the proportion of workers that complete training modules will not indicate the social impact of their presence. Workers could complete modules solely because this is a condition of employment, and they might still behave in ways that undermine 'social cohesion and lifestyle'. The same applies to the following measure, which may reveal nothing about the extent to which worker behaviour will reflect respect for Aboriginal cultural values:

KPI: Completion of the cultural awareness training modules

Target: Number and proportion of contractors and employees who have successfully completed the cultural awareness training modules³³

As noted above, a key purpose of a SIMP is to establish a monitoring and measurement system for gauging the *effectiveness* of management strategies designed to minimise negative effects and encourage positive impacts. Here also the SIMP is fundamentally flawed. A key problem is that the measures used do not relate to effectiveness. For example, in relation to measures to promote 'Healthy Country: Biodiversity and the Environment', one key performance indicator (KPI) is 'ILUAs', and a relevant target is 'Number of ILUAs'.³⁴ The existence and number of ILUAs reveals nothing regarding the effectiveness of measures to protect the health of country. A single ILUA that focused on the health of country could have a huge impact, or no impact, depending on its provisions; a large number of ILUAs might have no positive effect if they lacked relevant provisions.

7. The targets included in the SIMP lack any quantitative dimension and in most cases only restate the key performance indicator to which they relate.

Equally problematic is the fact that many of the targets included in the SIMP, which are supposedly designed to provide a measure of failure or success, are simply a restatement of the KPI to which they relate. In effect, this means there is no way of evaluating the effectiveness of a management strategy. For example, in relation to the proposed Community Investment Strategy, the KPI is 'Financial assistance for community investment'. The relevant target is 'Dollar value of financial assistance (e.g., community investment opportunities)'.³⁵ 'Dollar value of financial assistance' is not a target, it is simply the KPI expressed in a slightly different way. To illustrate this point, several

³¹ Social Impact Management Plan, November 2022, pp 23, 30

³² Table 3-4: People and Communities: Social Cohesion and Lifestyle, Social Impact Management Plan, November 2022, p 38

³³ Table 3-5: Cultural Identity: Cultural Heritage and Sacred Sites, Social Impact Management Plan, November 2022, p 44

³⁴ Table 3-6: Healthy Country: Biodiversity and the Environment, Social Impact Management Plan, November 2022, p 48

³⁵ Table 3-2: Strong Voice: Stakeholder Engagement Strategy, Social Impact Management Plan, November 2022, p 25

Australian mining companies, as part of their community investment strategy, commit a percentage of their profits and or revenues in support of the strategy. For example, BHP has a long-standing commitment to allocate not less than 1% of its pre-tax profits to social investment.³⁶ This constitutes a target, whose achievement can be empirically verified. No such commitments are included in Sun Cable's SIMP, making it impossible to measure whether Sun Cable has achieved its KPIs.

Another similar example involves a KPI related to the impact area 'Jobs and the Economy: Local Content'. The KPI is 'Participation of local (Aboriginal and non-Aboriginal) employees in the Project', and a target is 'Number of local (Aboriginal and non-Aboriginal) employees participating in the Project'.³⁷ Again, no number / figure is actually specified in this target, making it impossible to gauge whether the strategy has been successful. In this area other Australian companies have also established quantitative targets, as with Rio Tinto's goal of achieving demographic representation, with the proportion of Aboriginal people in its workforce matching that of the regional population for the project concerned.³⁸

An additional problem is that there is often no effort to relate achievement of KPIs or targets to the relevant impact issue. For example, in relation to 'cumulative impacts', one KPI is 'Cargo transportation methods', and the related targets are 'Percentage of cargo transported on railway' and 'Percentage of cargo transported on roadways'.³⁹ It is not clear what percentages, individually or combined, would need to be achieved for cumulative impacts to be managed. For example, if a high percentage is transported by rail and a low percentage by road, does this serve to reduce cumulative impacts? The reader has no way of knowing.

Another example of this problem involves the impact 'Reduced affordability and availability of public and private accommodation, particularly in Tennant Creek, Elliott and Katherine as workers or families seek local housing'. The KPI and targets in relation to this item are as follows:

KPI: Workforce utilisation of constructed facilities

Target: Number of workforce residing in community

Target: Number of workforce residing in Project facilities

Target: Number of workforce residing in short-term accommodation which are not Project facilities⁴⁰

Apart from the lack of clarity regarding what 'constructed facilities' refer to, it is unclear whether a high or low number on any of the three variables is a positive or negative outcome. Critically, it is also unclear what combination of these targets would constitute what Sun Cable regards as an acceptable outcome, i.e. how this would mitigate this impact from 'Catastrophic' to 'High' (refer Table 1).

An illustration of how a number of the problems discussed above can combine to undermine the core purpose of the SIMP in managing social impacts involves the possibility that the Sun Cable project could result in 'Reduced welfare of girls and young women due to exploitation by workers, sexual liaisons, sexually transmitted diseases and unwanted pregnancies'. While the SIA rates the

³⁶ See: <https://www.bhp.com/sustainability/communities/social-investment>

³⁷ Table 3-7: Economies and Jobs: Local Content, Social Impact Management Plan, p 55

³⁸ Harvey, B and Gawler J, *Aboriginal Employment Diversity in Rio Tinto* in Kalantzis, M and James, P (ed), International Journal of Diversity in Organisations, Communities and Nations, vol 3 2003 accessed at <https://resolution88.com.au/wp-content/uploads/articles/Aboriginal%20Employment%20Diversity%20in%20Rio%20Tinto%20Cultural%20Diversity%20in%20a%20Globalising%20World.pdf>

³⁹ Table 3-12: All Themes: Understanding and Adapting to Cumulative Impacts, Social Impact Management Plan, p 76

⁴⁰ Table 3-11: Infrastructure and Services: Infrastructure and Social Investment, Social Impact Management Plan, p 71

severity of this potential impact as 'Medium',⁴¹ literature suggests that the impact of major resource projects on Aboriginal women can in fact be catastrophic.⁴² This is especially so where a project involves large construction camps occupied almost entirely by men, as will occur with the Project. The SIMP proposes to address this issue by 'Include[ing] information in health, safety, and environment training to protect the wellbeing of people in communities, particularly women and girls.'⁴³ The relevant KPI and target are:

KPI: Completion of the Health, Safety and Environment (HSE) and cultural awareness training modules

Target: Number and/or proportion of contractors and employees who have successfully completed Health, Safety and Environment (HSE) and cultural awareness training modules⁴⁴

Here again the target simply repeats the KPI, and the completion of training modules which is at the core of both the KPI and the target tells us nothing about whether women and girls are experiencing negative impacts. The relevant review mechanism involves monitoring 'undesired behaviour of the workforce (e.g., number of workers with knowledge about the code of conduct)'.⁴⁵ Again, worker knowledge of the code of conduct tells us nothing about undesired behaviour. The latter would need to be reviewed directly, but there is no indication that this would occur or how it might occur. Further, there is no indication at all of what would occur if it was revealed that the project was in fact reducing the welfare of women and girls, what threshold level of harm might be unacceptable and so lead to project suspension, who would be responsible for taking remedial action, or who would be responsible for funding that action.

8. References to timeframes in the SIMP are so general as to be irrelevant in gauging the feasibility and relevance of proposed actions or in holding Sun Cable accountable for delivery of management activities.

A final issue involves the matter of timeframes. It is impossible to assess the potential effectiveness of management strategies, or to hold Sun Cable accountable for their implementation, unless specific timeframes are attached to their development and implementation. This is acknowledged by Sun Cable's Preliminary SIMP when it refers to the need for 'clear numbering, wording and commitments to locations, *timing*, frequency, method, and responsibilities'.⁴⁶ References to timeframes in the SIMP (November 2022) include, for example, 'Ongoing' and 'Prior to construction and ongoing'⁴⁷ are so general as to be irrelevant in gauging the feasibility and relevance of proposed actions and in holding Sun Cable accountable.

⁴¹ Section 6.5.10, Appendix I – Social Impact Assessment, Australia-Asia PowerLink Environmental Impact Statement, prepared by Jane Munday and Claire Butler (True North Strategic Communication), March 2022

⁴² Gibson, G., K. Yung, L. Chisholm, and H. Quinn with Lake Babine Nation and Nak'azdli Whut'en. 2017. Indigenous Communities and Industrial Camps: Promoting healthy communities in settings of industrial change, Victoria, B.C.: The Firelight Group.

⁴³ Table 3-4: People and Communities: Social Cohesion and Lifestyle, Social Impact Management Plan, November 2022, p 37

⁴⁴ Table 3-4: People and Communities: Social Cohesion and Lifestyle, Social Impact Management Plan, November 2022, p 38

⁴⁵ Table 3-4: People and Communities: Social Cohesion and Lifestyle, Social Impact Management Plan, November 2022, p 38

⁴⁶ Section 2.1, Appendix J – Social Impact Management Plan Australia-Asia PowerLink Environmental Impact Statement, prepared by True North Strategic Communication, March 2022

⁴⁷ Social Impact Management Plan, November 2022, pp 23, 24, 48, 54

6. Compliance with IAIA principles

The Sun Cable SIMP states that it has been ‘informed by’ IAIA guidelines.⁴⁸ The most directly relevant IAIA guidelines are its ‘International Best Practice Principles for Impact Assessment Follow-Up’,⁴⁹ because the IAIA defines IA follow-up in ways that mirror the tasks that the NT EPA expects a SIMP to achieve. Thus, according to the IAIA the objective of IA follow-up is ‘to determine and learn about the outcomes of impact assessment of projects or plans in order to inform ongoing management of that development’. Follow-up includes:

- Monitoring – collection of activity and environmental data relevant to project or plan performance determination.
- Evaluation – of monitoring data in light of performance standards, objectives, predictions or expectations.
- Management – making decisions and taking appropriate actions in response to issues arising from monitoring and evaluation activities.⁵⁰

Sun Cable’s SIMP very obviously fails to comply with the IAIA Best Practice Principles of IA Follow-Up as illustrated by the following examples, which compare what the IAIA identifies as ‘best practice’, with what is provided for in the Sun Cable SIMP.

Principle 1, State the objective of each impact assessment follow-up activity. The Sun Cable SIMP fails to specify objectives for follow-up activities, and indeed it is often unclear how an activity is even related to a broad area of impact, let alone what its specific objective is. The complete absence of quantifiable and relevant targets makes it impossible to establish what specific objectives may exist.

Principle 7, Provide clear accountability for impact assessment follow-up responsibilities. There is a marked lack of accountability in the SIMP, as noted above in relation to verifying that ILUA agreements are fulfilled and that the expected benefits of the Community Investment Strategy materialise. More broadly, the absence of concrete and relevant KPIs and of specific timeframes for follow-up activity render it impossible to achieve effective accountability.

Principle 8, Provide clear, pre-defined and well-justified performance criteria. As documented in detail in earlier sections of this submission, the SIMP fails to provide such performance criteria, with targets simply restating the KPIs to which they apply, and with review mechanisms in some cases failing to make sense or seeming to bear no relation to the impact area concerned.

Principle 9, Specify enforcement provisions, identify the consequences for non-compliance within IA follow-up provisions. At no point does the SIMP contemplate that IA follow-up provisions might not be complied with, and so there is no reference to the need for enforcement provisions or their possible form.

Principle 11, Facilitate adaptive management ... Learning derived from IA follow-up should inform ongoing adaptive management of the project ... [and allow] unexpected consequences to be

⁴⁸ Social Impact Management Plan, November 2022, p 2

⁴⁹ International Association for Impact Assessment, 2022, *International Best Practice Principles: Impact Assessment Follow-up*, IAIA Special Publication Series No 6, accessed at https://www.iaia.org/uploads/pdf/SP6_22%20Follow%20up_converted.pdf, p 1

⁵⁰ International Association for Impact Assessment, 2022, *International Best Practice Principles: Impact Assessment Follow-up*, IAIA Special Publication Series No 6, accessed at https://www.iaia.org/uploads/pdf/SP6_22%20Follow%20up_converted.pdf, p 1

revealed and addressed as appropriate. There is no acknowledgement in the SIMP that management strategies might not be effective, and that adaptive management might thus be necessary. The possibility of 'unexpected consequences' is not even recognised, and so no attempt is made to indicate how they might be addressed.

7. Conclusion

The SIMP is entirely deficient in meeting the requirements of the NT EPA. It also falls far short of the IAIA's Best Practice Principles for IA Follow-Up. Given the fundamental deficiencies set out in this submission, the NLC submits that the NT EPA should not make any recommendation regarding environmental approval for the Project until Sun Cable has completed a new SIMP that remedies these deficiencies and which meets the NT EPA's requirements for an SIMP.