

# Ethical CORPORATION

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## Licence to Legacy:

Life Cycle Management and Social Impact in the Extractives Sector

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**Selected Findings**

# Executive summary

Social legacy planning in the extractives sector refers to the role that mining, oil and gas activities can play in supporting the sustainable development aspirations of a particular community or region. It remains a relatively new theme within the extractives sector, and is a multi-stakeholder process requiring the active participation and contribution of government, companies, community and civil society. With the anticipated upswing in the extractives sector following a period of decline in commodity prices, future exploration and production could provide new opportunities for the sector to integrate social legacy planning into all phases of operational activity.

This report acts as a starting point and introduction to some of the broad themes, issues and challenges around social legacy planning, while also reflecting industry experience to the present day.

The report explores and discusses the importance that social legacy planning plays in the life cycle of extractives operations, and highlights the ways in which comprehensive planning carried out with the input of communities and other external stakeholders can deliver tangible benefits down the line.

This report provides a discussion of current corporate best practice, an overview of regulatory frameworks in major jurisdictions around the world, and a guide to the potential benefits on offer for companies who incorporate social legacy planning into every stage of the life cycle of operations. It then takes a look at nine case studies of companies who have taken steps to strengthen their legacy planning strategies, with lessons to be learned from the approach these companies adopted and the challenges they overcame.

Companies who were interviewed during the production of this report include:



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# About us



**Ethical Corporation** is an independent business intelligence company. Our stated mission is to help businesses around the world do the right thing by both their customers, and the world itself. We believe not only that this is the most effective way of guaranteeing a future for all, but that it makes good business sense too! We provide objective analysis in our reports, news, events and updates for thousands of companies and individuals from the corporate sustainability sector.

Through our monthly magazine, website, conferences and intelligence reports, we aim to act as an impartial voice, provide industry data, and carry critical analysis of current best practices. Our practical reports aim to provide critical independent analysis, purvey necessary industry data, and carry out in-depth, real life case studies – all in an easy-to-read format.



**Emily Richards** is a freelance social and human rights consultant. She has spent the last eight years working predominantly in the oil, gas and mining sector, with a focus on the engagement between business and the international human rights framework. As part of her work, she has helped to develop bespoke methodologies in line with the UN Guiding Principles on Business and Human Rights to help organizations better understand their role and responsibilities within the social sustainability, human rights and business discourse. Emily has worked globally with multinational extractives companies, international organizations such as UNICEF, and national human rights institutions including the South African Human Rights Commission in Johannesburg, where she worked for much of 2008. She lives in the Oxfordshire countryside with twin daughters Maggie and Grace and her husband Tom.

# 1

## Introduction

*"The future of the mining industry is dependent on the legacy it leaves" (Australian Government, 2006).*

*"Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs" (IISD, 2015).*

### 1.1. What is Social Legacy Planning?

Social legacy planning in the extractives sector refers to the role that mining, oil and gas companies can play in supporting the sustainable development aspirations of a particular community or region, while at the same time enhancing their own operational efficiency and resilience. Sustainable development is a multi-stakeholder process requiring the active participation and stewardship of government, communities, and civil society, to which companies can contribute.

Social legacy planning is a new term, and while not widely used, aims to reframe and consolidate some of the debates around life cycle management and closure planning. As such this report aims to not deliver a comprehensive or definitive analysis of all the issues, but rather collects together a series of industry insights and case studies, which aim to generate debate and conversation around social legacy planning. Work, debate, experience and

practice in this area will continue for many years to come.

Sustainable development is a collective responsibility between government and populations. Yet purely from the perspective of extractives companies, social legacy planning has the benefit of helping them operate effectively, meet legal responsibilities, manage long-term social and financial liability, create project resilience, particularly during economic downturns, while also enabling them to contribute to the ongoing social sustainability of a particular community or region if they choose to do so.

Social legacy planning requires a regional rather than a company-based focus, and calls for partnerships between all relevant stakeholders within the region. These partnerships must focus on capacity building and economic and social development, with a view to ensuring the social sustainability of the population and environment.

## 2

## Best practice, legislative & regulatory environment

### 2.1. Current best practice

Although current best practice in the extractives sector advocates for innovation in the areas which often comprise social legacy planning aspects – namely social impact management, local content and employment, and sustainable and strategic social investment – the specific focus of current best practice is on creating innovation in closure planning rather than specifically around social legacy. In this way, best practice currently looks at the closure of the operational site and works backwards from there. However, as far as this research indicates, there is no current best practice advocating for the initiation of legacy planning right from the start of a project, looking forward. The following section provides an overview of the sources of best practice and progress made in each arena.

#### 2.1.1. World Bank

The key agenda of the World Bank Extractive Industries programs is to help countries ensure that domestic resource extraction contributes to development. “The World Bank Group’s involvement in extractive industries seeks to help countries seize opportunities they offer for development, poverty reduction and boosting shared prosperity” (World Bank, 2015).

One such effort was the 2010 publication of “Towards sustainable decommissioning and closure of Oil fields and Mines: A Toolkit to Assist Government Agencies”. The toolkit aims to raise awareness and contribute to capacity-building on sustainability issues, compile

key existing sources, and propose and disseminate a sustainable decommissioning and closure policy and process roadmap that promotes a proactive approach of “thinking with the end in mind” (World Bank, 2010). The World Bank strongly advocates for collaboration between extractive companies, civil society, communities and government, towards the sustainable development of particular communities and regions.

#### 2.1.2. International Financial Corporation (IFC)

As the private sector lending arm of the World Bank, the IFC supports the World Bank’s objectives. “The IFC’s Oil, Gas and Mining Group adds value to clients through financing and advice on sustainability issues. Our mission is to help developing countries realize long-term economic benefits from natural resources. These sectors are important for many of the world’s poorest countries as they can provide jobs, economic opportunities, infrastructure, revenues to government, energy and other benefits for local communities” (IFC, 2015).

The IFC Environmental and Social Performance Standards specifically focus on the management of social and environmental risk and apply to all IFC investment and advisory clients. “Performance Standard 1 establishes the importance of (i) the global assessment to identify the environmental and social impacts, risks, and opportunities of projects; (ii) effective community engagement through disclosure of project-related information and consultation with local communities on matters that directly affect them; and (iii) the client’s management of environmental and social performance throughout the life of the

## *The aim of the Guidelines for Preparing Mine Closure Plans is to ensure that Western Australian mines can be closed, decommissioned and rehabilitated in an ecologically-sustainable way*

### **2.3.1. Mining and Oil and Gas legislation and regulation**

The following section provides a sample of legislation and regulation governing the oil, gas and mining sector globally. This is by no means a comprehensive analysis but aims to indicate examples where social considerations are being integrated into mining and mine closure legislation.

#### **2.3.1.1. Australia**

The Minerals Council of Australia (MCA) represents Australia's exploration, mining and minerals processing industry. It acts on behalf of industry both nationally and internationally in advancing the sector's contribution to sustainable development. The MCA has produced "Enduring Value," the Australian Minerals Industry Framework for Sustainable Development (Minerals Council of Australia, 2015).

The MCA's framework stresses a life-cycle approach to mining, in which the environmental, social, and health impacts of mining are assessed and continually monitored, and mitigation measures (including decommissioning and closure plans and financial reserves) are systematically adjusted to reflect current conditions. The framework strongly encourages early communications with project stakeholders and a life cycle-long process of stakeholder dialogue to inform decommissioning and closure plan development and update (World Bank, 2010).

*"In adopting Enduring Value, the Australian minerals sector is recognizing that its future is linked to the pursuit of sustainable development, which means operating in a manner that is attuned to community expectations and which acknowledges that business has a shared responsibility with government, and with broader society to help facilitate the development of strong and sustainable communities" (Australian Government, 2006).*

The Australian Department of Mines and Petroleum (DMP) and the Environmental Protection Agency (EPA) started to develop the Guidelines for Preparing Mine Closure Plans in 2011, which was released for public consultation in 2014 (Government of Western Australia, 2014). The aim of these guidelines is to ensure that Western Australian mines can be closed, decommissioned and rehabilitated in an ecologically-sustainable way. Although the guidelines continue to focus on the ecological aspects of mine closure planning, DMP and the EPA encourage proponents to consider socio-economic aspects of closure planning, in particular, impacts of mine closure on local communities" (ibid. 2).



### 5.3. Marlin, Goldcorp, Guatemala

#### 5.3.1. Background

The Marlin Mine is located in Guatemala and is owned by Montana Exploradora de Guatemala, a subsidiary of the Canadian mining company Goldcorp. The gold mine site spans two Guatemalan municipalities, San Miguel and Sipacapa. The mine was discovered in 1998, brought into production in 2005 and acquired by Goldcorp in 2006 when it merged with Glamis Gold. The mine has both open pit and underground mining operations, and at the moment has identified reserves to last until 2017. Although exploration activity is still being undertaken, there is a chance that the mine could close around that time.

#### 5.3.2. Social legacy planning

After the merger between Glamis Gold and Goldcorp in 2006, concerns around human rights allegations at the Marlin mine came to the attention of a group of socially-responsible investors including Ethical Funds, First Swedish National Pension Fund, Fourth Swedish National Pension Fund, Public Service Alliance of Canada Staff Fund and SHARE. In 2008, representatives of this group visited the Marlin mine to view the operation and engage with local stakeholders. Following this trip, the shareholder group requested that Goldcorp undertake an independent Human Rights Impact Assessment (HRIA) of the mine, to identify the human rights impacts and establish plans to meet obligations. The mine undertook the HRIA between 2008 and 2010 through an independent third party (Marlin Mine Human Rights Impact Assessment, 2010).

The impact assessment revealed seven key categories of negative impact the Marlin mine was having on local communities: consultation, environment, labor, land acquisition, economic and social investment, security and access to remedy.

After the HRIA, a process was established to enhance consultation with the communities, particularly around how they could better understand the social closure plan and share their input. Goldcorp recognized the increasing need to manage expectations not only around closure planning but also around the impacts of closure.

In 2010, the Inter American Commission on Human Rights (IACHR) granted "precautionary measures" for the members of 18 Maya indigenous communities surrounding the Marlin mine. The Commission called upon the government of Guatemala to suspend operation of the mine until petitions submitted by the Mayan communities could be examined and ruled upon. However, in 2011 the IACHR announced that the precautionary measures were being revised to no longer call for the closure of the mine, providing access to potable water would be instituted for the Mayan petitioners. The precautionary measures and increased expectation of community stakeholders allowed Goldcorp to address long-term potable water issues in the region, in collaboration with the government of Guatemala.

#### 5.3.3. Social legacy planning

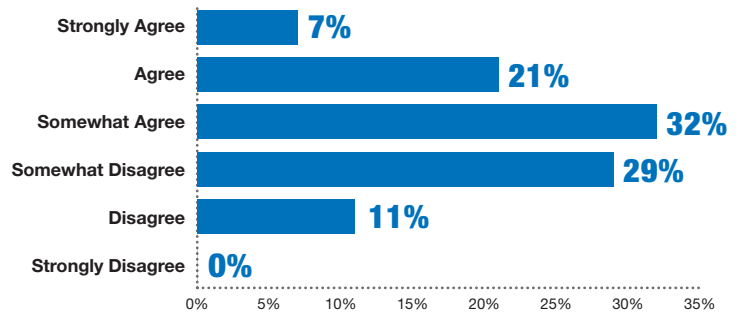
According to Mark Bergerson, Executive Vice President for Corporate Affairs and Sustainability,



In an anonymous poll at Ethical Corporation's Responsible Extractives Summit in Houston, Texas earlier this year, we posed the following question to Extractives industry professionals:

"The social legacy of our projects are mapped out from the start of the project and consider all elements of the product lifecycle"

To what extent do you agree with this statement?



This helped reaffirm our belief that a constructive and comprehensive report on social legacy planning in the Extractives sector was necessary.

## What people are saying...

...about other Ethical Corporation research

*"Ethical Corporation brings together the no-nonsense critical approach to sustainability with business-savvy information".*

Ramon Arratia, Sustainability Director  
EMEA, **Interface**

*"One of the foremost thought leaders engaging key stakeholders around the globe on sustainability issues – supply chain, operations, innovation, communications, engagement – it is well positioned to provide valuable input and guidance to the business and stakeholder community at large on the issues, questions and challenges material to this domain".*

Christine Diamente, Head of Brand and  
Corporate Sustainability, **Alcatel-Lucent**

*"Great service; a source of clear thinking and brilliant links to what is going on".*

Dave Howson, former Global  
Sustainability Director at **Bacardi Ltd.**

*"It is a good way to benchmark with other companies and industries. It is also an excellent way of leveraging best practice".*

Ian Roderick, Director,  
**Schumacher Institute**

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