

Tailored Impact Statement Guidelines:
TAC Advice on General Themes to Consider

The *Impact Assessment Act* requires the issuance of Tailored Impact Statement Guidelines (TISGs) at the end of the 180-day planning phase. The TISGs seek to provide project-specific direction to the proponent on the information requirements for the generation of the Impact Statement.

The Technical Advisory Committee on Science and Knowledge was asked to provide advice to the Agency on several specific themes that are key to the effectiveness and efficiency of the TISG process. Specifically, the committee was asked to comment on key practices and principles to inform how to operationalize the Agency's risk-based approach, considering the limited time frame of the planning phase. The specific questions posed by the Agency included:

- What principles and key practices should Agency staff consider, or undertake, to operationalize IAAC's risk-based approach to scoping the assessment and tailoring project-specific information requirements and studies, considering the planning phase legislated timeframe?
- Within the legislative timelines of the planning phase, what principles, considerations, and practices should IAAC (with input from FAs and other stakeholders) use to identify the "key issues" of a project and "tier" or "rank" these issues?
- What pertinent information should be requested from proponents in Initial or Detailed Project Descriptions to support IAAC in scoping the assessment, making a risk determination and undertaking tailoring decisions?
- What questions should IAAC ask FAs in order that FAs' advice supports IAAC's tailoring? What type of information should FAs provide the Agency to inform and support the tailoring decisions?
- Are there other sources of evidence the Agency could use to support the tailoring process?

As requested by the Agency, the TAC's advice highlights general themes that should be considered when developing TISGs and was not focused on specific requirements. With this caveat, this committee's advice is structured along the five main themes outlined below.

Theme 1 and 2: ***Operationalizing risk-based approach to scoping and identifying project key issues and tiering them***

- A basic principle of identifying VCs in the TISG is that there is a continuum of inclusion, from the very important (major focus of the IA) to the utterly unimportant (very little focus if any). Accordingly, more effort in the impact assessment needs to be made for those VCs that are most important with less and less effort for those of lesser importance. The TISG should say as much and the TISG should provide both clarification on the level of priority required per VC and some rationale for this determination. If the Agency determines that the designated project would not affect a VC, the VC should be excluded from the TISG (with an explanation supporting how this was determined at the Planning Phase, if appropriate).
- For VCs highly valued by affected peoples, and for which there is an important (positive or adverse) effect likely, the TISG should say so and explain why. These VCs should constitute the major focus of the IA.

- VCs that are highly valued by affected communities and for which there may be an important (positive or adverse) effect likely but this is uncertain, should also be included in the TISG and they too should constitute the major focus of the IA. However, if the work done during the IA determines that the important effect is highly likely to be absent, the focus should shift to other more important VCs. The TISG should identify that the Proponent is responsible to engage with the Agency and parties to the impact assessment prior to reducing focus on any VC from what is identified in the TISGs, and providing a supporting rationale in the IS for any such adjustment.
- VCs identified based on considerations such as Section 22 of the Act (Factors to be Considered) or that are otherwise required to be considered but for which there is little community concern or for which solid evidence suggests no important effect is expected may well be included in the TISG, but the IA should not have a major focus on these VCs. It is the responsibility of the Agency to clearly state in the TISGs when specific “mandatory” VCs require a lower level of effort, and provide clarity where possible on what that lower level of effort means for the Proponent’s information requirements in the IS.
- VCs that are not legally required to be included for which there is little community concern and for which solid evidence available to the Agency during the Planning Phase suggests no important effect is expected should be excluded from the TISG. Where appropriate for clarity, the TISG should state why these VCs were excluded.
- Flexibility in the TISG:
 - Flexibility in the TISG is needed in part because there are important sources of information in the assessment process that will only manifest themselves after the development of the TISG. If important new issues should be revealed during the assessment (e.g., if the designated project were to be changed by the proponent), they should be examined.
 - More importantly, participants in the IA process other than the proponent may only gradually gain a complete understanding of the project later and so may only then develop the capacity to inform an appropriate scope. Reviewing the project description and the impact statement provided by the proponent is part of that capacity building process, as is the ability to use the participant funding program to examine issues not explored, or not sufficiently explored by the proponent in the impact statement.
 - Should the TISG, which must be prepared by the Agency quite quickly during the planning phase of the process, miss any important matters, there may be some need for revision if the impact assessment process is to be credible. Having said that, the time limits imposed are such that a panel (or the Agency) may well find it very difficult to both take advantage of any flexibility afforded in the TISG and complete the review within the prescribed time limit. This conflict may or may not have a workable resolution.
- In an effort to offer a resolution, we offer the following advice to the Agency:
 - We strongly encourage the Agency to promote the use of impact assessment work (engagement (including capacity building) and preliminary studies) prior to the formal commencement of the IA Process (sometimes referred to as the pre-planning phase, although it is not a part of the formal process). This seems very likely to make a good IA and a good IA Process. (Note that we view a good IA and a good IA Process as being one

that is efficient, effective and fair and one that is seen by participants as efficient, effective and fair.)

- An effective well-done scoping exercise is widely recognised as very important for a good impact assessment and a good impact assessment process; the Agency should work very hard to engage fully with all IA participants to prepare an excellent TISG.
- It is, as noted above, likely that surprises will show themselves during the IA Process. Accordingly, the Agency should build flexibility into the TISG. This flexibility should enable actions that would allow improvements in both the IA and the IA Process. It is recommended that TISGs include specific placeholder language indicating that revisions to the TISG can be required by the Agency at any point in time prior to the filing of the IS, and the Agency will provide both a formal addendum and a supporting rationale for any revisions to the TISG on the public record.
- When surprises manifest themselves in the IA Process, the Agency or the Panel should try very hard to find creative ways to use the flexibility in the TISG to deal with the surprises and to make the IA and IA Process as good as possible.

Additional recommendations related to scoping include:

- Develop sector specific lessons learned and make them available as part of the IA Practitioner's Guide to help focus discussions and issues typically relevant to a given sector, recognising that this is a starting place and doesn't mean these are the only issues to be considered.
- A review/challenge function of information provided in project descriptions should be an explicit part of the tailoring process.
- Encourage multi-party working groups with public meetings focused on scoping, where participants suggest VCs and discuss priorities (e.g., approach used by panels in 1980/90s). This would be a form of engagement and does not replace required one-on-one consultation processes.
- Consider tools such as conceptual models or impact/hypothesis diagrams to help participants visualize effects pathways and to explicitly articulate the current understanding of the system.

Theme 3: *Information to be requested from proponents*

- What is the evidence to support the effectiveness of proposed mitigation measures (including real life experience and evidence of its applicability in the Project case along with limitations on that applicability, and academic/research supporting evidence)? What are the uncertainties associated with the evidence?
- The TAC recommends that the Agency commit resources to examining the effectiveness of existing requirements and historic quality of alternative means assessments, and if there are demonstrable deficits, make alterations to requirements and guidance for alternative means assessment a priority in the short to medium term.

Theme 4: *Information to be requested from FAs or other sources*

- How can the Agency ensure FAs provide information to support tailoring decisions in a credible, timely, and relevant manner?
- Areas of responsibility must be defined in cases where federal authorities may need to gather information and/or provide advice on additional issues.
- Public forums where rights-holders and stakeholders can both provide information and concerns directly to FAs, and receive quality information related to their concerns from FAs, are critical to the IA process, and should be built into the process. By gathering information in public forums from rights holders, the FAs would be able to work with the Agency to tailor the TISG to address concerns raised.
- Consider whether there is appropriate information that is more effectively provided by other sources (e.g. Federal Authorities, Indigenous groups).

Theme 5: ***Other sources of evidence***

- It is important to identify and understand the capacities of Indigenous communities and other parties and work to address any capacity needs.