

PRACTITIONER SUMMARY IV

**ETHICS, VALUES AND SOCIAL LICENCE
IN THE BLUE ECONOMY**

Understanding the Social Licence to Operate (SLO)

AUGUST 2024



Australian Government
Department of Industry,
Science and Resources

Cooperative Research
Centres Program

Project Partners



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Acknowledgements

The authors acknowledge the financial support of the Blue Economy Cooperative Research Centre. This research was funded through the project [‘Ethics, values, and social licence in the Blue Economy’](#) (Project 5.20.005). The authors particularly wish to thank Project Steering Group members David Rissik, Ian Dutton, Jonathan Fievez, Sean Riley, Graham Wood, and Marcus Haward.

The Blue Economy CRC

The Blue Economy Cooperative Research Centre (CRC) is established and supported under the Australian Government’s CRC Program, grant number CRC-20180101. The CRC Program supports industry-led collaborations between industry, researchers and the community. Further information about the CRC Program is available at <http://www.business.gov.au>.

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Introduction - What Is The 'Social Licence to Operate'?

In its broadest sense, the term **Social Licence to Operate (SLO)** refers to community acceptance of industry operations.

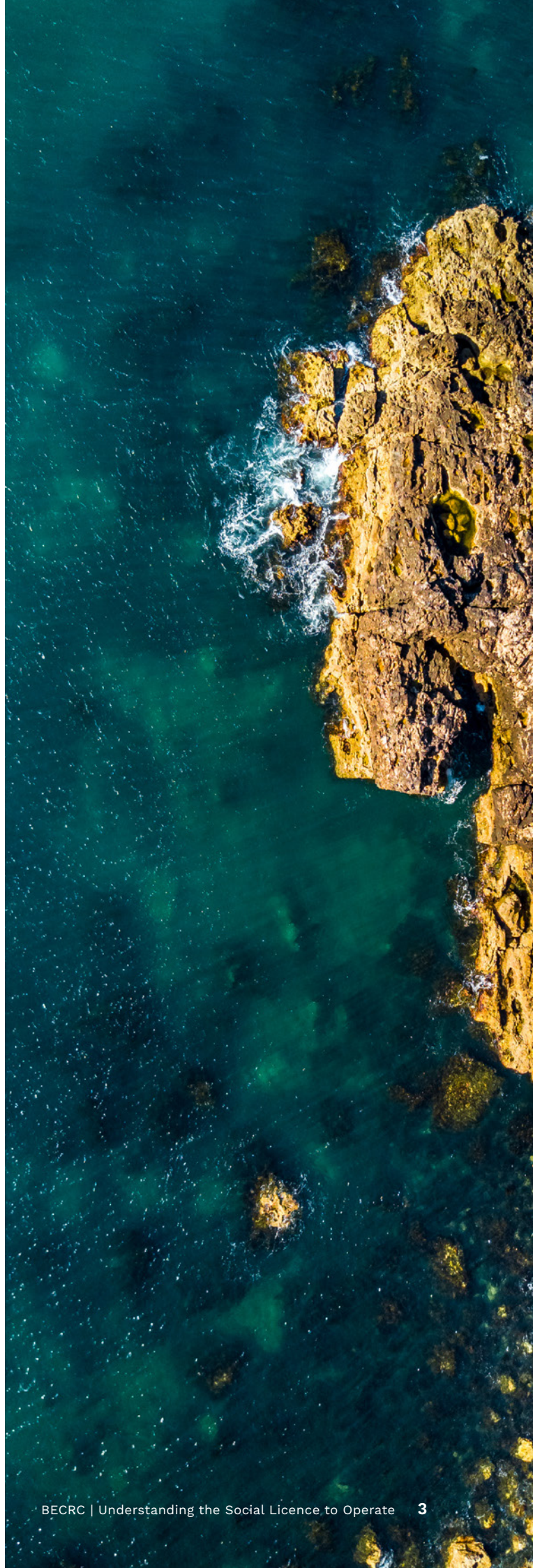
SLO is increasingly used in an explicitly moral way, implying that industry operations should have community acceptance (Cooney 2017). On this view, whether the operations are acceptable (an ethical question) depends on whether the operations are accepted by key communities (a descriptive question).

Defining SLO

"...the ongoing acceptance of industry operations by local community members and other stakeholders that can affect its profitability..."
(Moffat & Zang 2014)

This definition helpfully captures key features of the SLO: the importance of **social acceptance**, the **link to particular stakeholder groups**, and the **possibility that those stakeholders might impact on operational and financial risk**.

This Practitioner Summary explains that an SLO which is built on genuine engagement, institutional integrity and ethical practice (Authentic SLO) is most likely to protect interests, mitigate harm, and produce satisfying outcomes for both community stakeholders and industry.





How is SLO Measured?

One of the challenges of invoking SLO is that there is no set of agreed and objective metrics against which to measure community approval. After all, community acceptance cannot mean unqualified positive endorsement from the entire population, as this is an unachievable benchmark.

Different stakeholder groups (various community, Indigenous, industry, government and more) will be supportive or opposed to different degrees. Acceptance can range across a spectrum from positive, active endorsement to ambivalent tolerance.

Similarly, lack of support for the operations may range from active resistance to passive intolerance (see Figure 1). Because social acceptance will vary across this spectrum for different stakeholders, social licence is hard to quantify, and is never ‘all or nothing’.

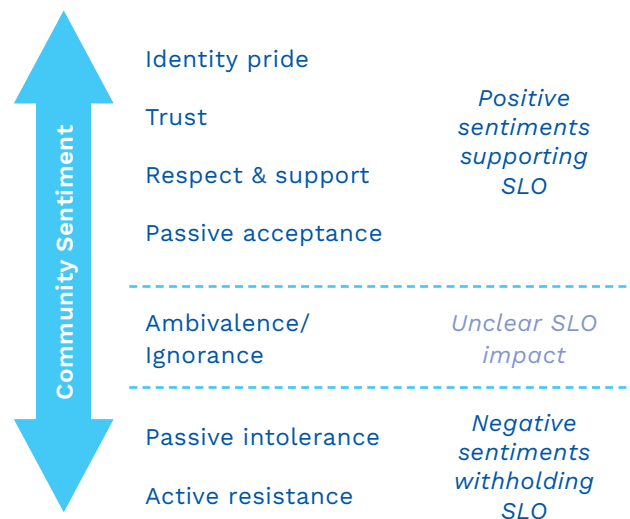


Figure 1: SLO and the continuum of community sentiment

There are additional reasons why accurately gauging SLO can be challenging. For example, public discussions sometimes can be dominated by well-connected voices and ‘noisy minorities,’ whose position may not reflect the depth and range of views of other community stakeholders. Survey data and community polls can offer a better measure of general community sentiment. However, by design, commission, or interpretation the findings can be leveraged to suit different purposes. For example, Practitioner Summary II: Tasmanian Blue Economy described how industry had pointed to survey findings that many Tasmanians acknowledged the industry’s importance. However, later surveys showed there was a significant gap between perceived importance and support for the industry.

Is Social Licence the Same as a Legal Licence?

Whilst SLO deliberately invokes the sense of a legal licence, there are key differences.

A legal licence is specific in terms of:

- △ The conditions for acquiring the licence
- △ The conditions for, and consequences of, losing the licence, including whether the licence will automatically lapse
- △ The identity of the authorising authority
- △ The identity of the licensed entity
- △ What operations the licence allows or does not allow.

In contrast, SLO is ambiguous across all these dimensions, making it harder to judge when it is held or lost, and what holding or losing the SLO means in practice.

This ambiguity has consequences. For example, SLO loss can be ‘contagious’. If one individual loses their legal licence to drive, then that doesn’t affect other drivers’ licences. However, if one company (or even just one operation) loses its SLO, the community may become suspicious of the entire industry.

SLO can interact with legal licensing. Sometimes, legal licensing, regulation or certification requirements will formally require industry operators to engage in SLO activities, such as community engagement and consultation—or even to show they have an SLO.

SLO and Democratically Made Law

In many industries, it is rare to hear appeals to SLO. This is because in these fields, current community sentiment isn’t used to determine whether operations are legitimate. Rather, democratic institutions pass legal rules and regulations that are impartially enforced. This is normally enough for operations to be accepted.



There are good reasons for this. Democratically made law benefits from:

- △ The legitimacy of voting processes and the clarity of their outcomes
- △ Expert advice
- △ The precision of legal licences and regulations
- △ The predictability and stability of legal licences and regulations.

Democratic systems also have weaknesses. Decisions can be subject to politicisation; industry capture and influence; manipulation of information and evidence; and challenges to hearing from key stakeholder groups. Its outcomes can be subject to industry exploitation through legal power and expertise. And there are costly and time-consuming systems of compliance, bureaucracy and oversight.

Governance systems that directly consider social acceptance have their own advantages because SLO is:

- △ Dynamic, dealing with emerging problems
- △ Community-focused, empowering stakeholder engagement
- △ Impactful, creating operational risks if the SLO is ignored.

However, **there are also problems with using SLO as a governance tool** (Dare 2023). Communities can be misinformed, uninformed, biased and mistaken—or simply unpredictable, making investment and employment decisions challenging. As well, the ambiguity in SLO means that it can be invoked by activists as a rhetorical weapon against industry, or by industry as an ethics-washing strategy to deflect criticism (Breakey 2023).

Systems of democratic law and SLO therefore have both strengths and weaknesses. The challenge is to build strong integrity systems where legislators, regulators, scientists, certifiers, the media and other stakeholders are able to actively play their role, with sufficient independence to establish effective ‘checks and balances’. If used appropriately, SLO can be one tool in this overall system, as can other more formal community engagement regimes like ‘free, prior and informed consent’.

Certification and SLO

Independent certification can be an important tool to achieve SLO. Certifiers can play a role outside of industry and government to assure stakeholders that the operations pass important standards—such as for sustainability or animal welfare.

However, certification is never ‘the’ answer to achieving SLO because certification can be too narrow and not cover concerns that the community thinks are important. Certifiers themselves can lose legitimacy in the eyes of the public, and no longer be trusted. In both these cases, SLO might be lost *despite* the operations having certification.

Potential Consequences of Losing SLO

Whilst it can be hard to determine whether or not an industry has secured a strong SLO, it can be easier to identify when it has been lost.

Loss of SLO might be marked by active resistance activities such as: community dissent and protest; breakdown in relationship and communication between industry and stakeholders; negative media coverage; and boycotts and negative publicity campaigns. However, a community does not need to protest or actively resist in order to withdraw SLO (see Table 2 below).

Losing SLO: Possible Consequences	
Impact on legal licence	Licensor withhold, modify or withdraw a legal licence.
Impact on law & regulations	Regulator may become more assertive, or enact legislative changes to impose restrictions and conditions.
Impact on distribution & sales	Impact on consumer choices - or distributors, retailers and wholesalers may refuse to sell the product.
Cost of reputation management	Need for proactive brand management and damage control, requiring costly executive and consultancy expenses.
Social & cultural costs	Companies may ‘face’ calling out and other social disruptions that can lead to leadership changes, staff turnover, and no longer being an employer-of-choice.

Table 1: Possible consequences of losing SLO

Securing SLO: Who Can Grant SLO?

There is no definitive answer to which groups determine SLO. However, three stakeholder groups are worth particular attention:

1. Those who will be most affected, positively or negatively
2. Those who live locally, and will reasonably think they should have a voice in local matters
3. NGOs with special interests (e.g. recreational users, environment or animals) can serve as a ‘canary in the coal mine’ in the sense that they alert operators and regulators to potential community flashpoints that might be brewing or ethical issues that aren’t being appropriately managed.

Unfortunately, stakeholders’ capacity to articulate their needs and concerns can vary due to a range of factors, including:

- △ Financial or human resources
- △ Education and industry or advocacy literacy
- △ Advocacy fatigue or disenfranchisement
- △ Location.

Finally, First Nations people may have special needs and connections to the land and sea that must be respected to achieve ‘cultural licence’—a condition distinct from social licence.

Securing SLO: Whose Responsibility is it?

Government can play an important role in managing industry SLO. The government role is especially critical when decision-making about operations must be made before industry is involved.

For example, governments might need to make major decisions about siting offshore renewable energy operations long before the involvement of specific commercial operators. In such a case, government actors must shoulder the responsibility for engaging with the community and addressing their concerns.

More generally, achieving SLO is never the sole responsibility of industry because whether a community accepts operations will depend on their assessment of the overall integrity system: is the governance regime well-regulated, evidence-based and independent?

Surprisingly, this means that the best ways that governments can support an industry's SLO in the long term can be by keeping at arm's length from it and being measured and transparent in both criticism and endorsement of the industry.

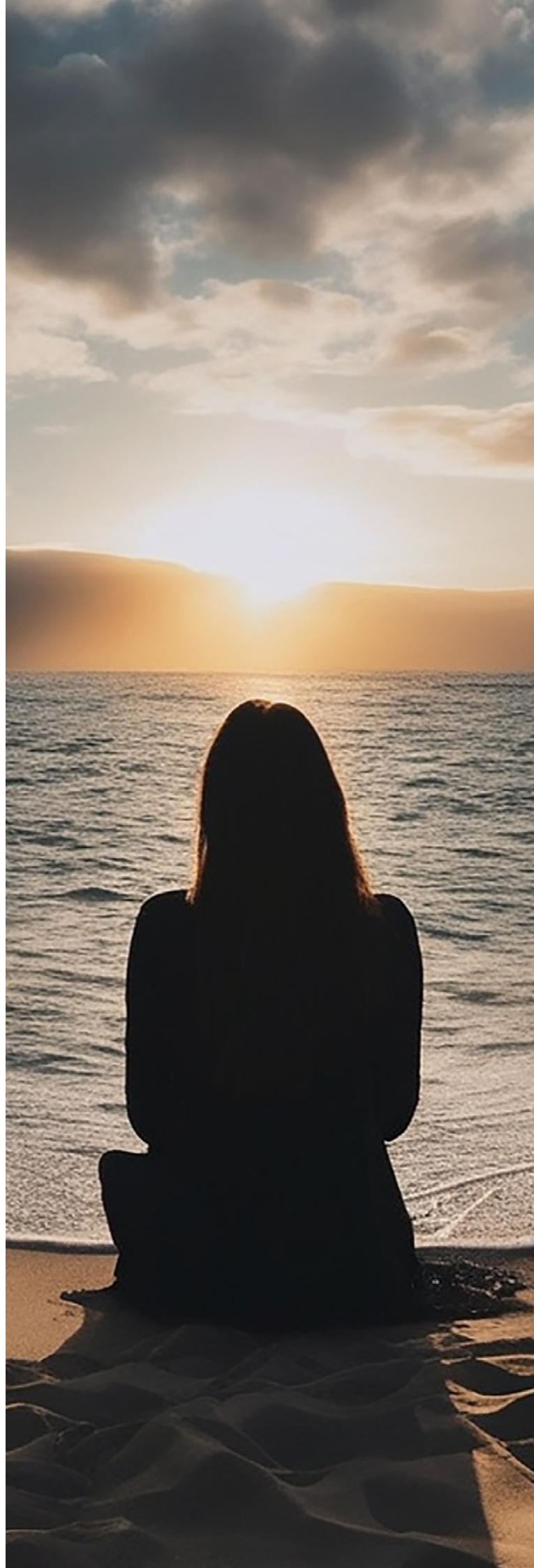
Government or regulator criticism of operations send the community the welcome message that the watchdog institutions are working appropriately, and have not been captured or neutered.

While individual operators ultimately shoulder the responsibility for securing their own SLO, peak bodies may play a useful role as industry representatives within an integrity system. On the one hand, peak bodies may pose a risk to genuine SLO where they are solely employed as a mechanism to strengthen lobbying power in a manner that seeks to capture or control other parties within the integrity system. On the other hand, peak bodies can play a crucial role in building authentic SLO by facilitating coordinated communication, partnerships, advocacy, research, engagement, and best practice systems.

Practitioner Perspective: How Much Do I have to Attend to SLO?

The demand for SLO engagement in a given industry or particular operation tends to reflect:

- △ Company size (small, local companies can be more trusted)
- △ The extent of the operation's environmental and social impacts, and its use of public resources
- △ Community familiarity with the operations and their effects
- △ Community confidence in governance and regulatory agencies.



This explains why SLO has been important in Blue Economy operations. The industry is dynamic and quickly growing, operating on public resources (oceans) and around important ecosystems, in a marine environment within the added vulnerabilities of climate change, which pose significant challenges to effective governance.

How Secure is SLO once it is in Place?

SLO is dynamic and flexible. It can shift in response to:

- △ The changing makeup of community stakeholders, including demographic shifts like ‘treechangers’ moving from urban to rural locations.
- △ Changing industry operators and actors
- △ Changing (or changing perception of) conduct of operations and their outcomes.
- △ Changing impacts upon local species, ecosystems, and environments.

Best Practice: Authentic SLO

Industry can be tempted to adopt a ‘tick box’ attitude to SLO, holding a couple of ‘town hall’ sessions or securing environmental certification.

This attitude is unsurprising because community engagement can be expensive, time-consuming and require specific expertise. Pleasing everyone can seem an unattainable goal.

However, ethics requires more than treating SLO as a box-ticking exercise. Authentic SLO requires dynamic and ongoing efforts at genuine engagement. Fortunately, the types of stakeholder concerns that impact SLO aren’t surprising—they track routine concerns about ethics and governance. As Table 2 shows, the key indicators contributing to community acceptance of operations directly parallel well-known ethical values.

CSIRO 2017 SLO Qualities	Blue Economy Ethical Values
Impacts (environmental)	Environmental sustainability
Impacts (social and other)	Harm avoidance
Benefits	Harm avoidance
Procedural Fairness (voice)	Stakeholder participation
Distributional Fairness	Fairness
Governance	Trustworthiness & accountability

Table 2: SLO qualities and ethical values

Authentic SLO involves holding a strong and deserved social licence. It has three components:

1. Genuine community engagement: listening and responding to stakeholders.
2. Institutional integrity: An institution has integrity when it reflects on its values and its mission, states these publicly, and puts in place measures to be transparent and accountable in achieving them.
3. Ethical practice: Conforming with common-sense ethical requirements (like the six Blue Economy ethical values listed in Table 2) works to forestall issues that might later cause SLO flashpoints.

Conclusion

Blue Economy industries: are dynamic and innovative; offer great promise of benefits (food security, renewable energy); are still in an emerging regulatory and governance environment; operating on public resources; and impacting on important ecosystems.

Because of these factors, ongoing ethical risks and social license concerns are inevitable. However, this is a space that can be sensibly navigated, with forethought, good will, and openness.


Further Reading

Breakey, H. 2023. 'The Social Licence to Operate: Activist Weapon, Industry Shield, Empty Buzzword, or Vital Ethical Tool?' In H. Breakey (Ed.), *Social Licence and Ethical Practice* (Vol. 26, pp. 1-10). Emerald.

Cooney, Jim. 2017. 'Reflections on the 20th anniversary of the term 'social licence.' *Journal of Energy & Natural Resources Law* 35:197–200.

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CSIRO Report: Moffat, K., Pert, P., McCrea, R., Boughen, N., Rodriguez, S., & Lacey, J. (2018). 'Australian attitudes toward mining: Citizen Survey – 2017 Results' (EP178434).



Further project research, including all four Practitioner Summaries, is available at <https://blueeconomycrc.com.au/project/ethics-values-and-social-license-in-the-blue-economy/>



BLUE ECONOMY

COOPERATIVE RESEARCH CENTRE

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ISBN: 978-1-922822-16-1