

SIA in NSW

A broader view

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Symposium for IA practitioners

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NSW DPE's SIA guidelines for resource projects

a significant step forward

A significant win in the NSW Land and Environment Court

Mina Suh v Liverpool City Council and Casula Community Group for Responsible Planning Inc No. 2 [2016] NSWLEC 1596

Actually a win plus

11 principles established and applied by
NSW Land and Environment Court

i.e. (at last) some case law

Established in Redcape Hotel Group Pty Ltd v Council of the City of Ryde [2016] NSWLEC
1497 <https://www.caselaw.nsw.gov.au/decision/5812cbece4b0e71e17f54f21>

Applied in Mina Suh etc

11 principles for considering social impact issues in land use planning decisions for licensed premises

1. Impacts should be 'likely'
2. Locality is a question of fact
3. Site location should be taken into account
4. The zoning of the site is relevant
5. Socio-economic characteristics are important
6. Crime statistics are relevant
7. The assessment should have regard to the academic literature
8. Some relationships are important e.g. between licence type & demography; price & demand
9. Density is relevant irrespective of zoning
10. Existing uses are relevant
11. Proposed mitigations should be adequate

but

notwithstanding the principles, the Court tends to over-rely on the social gradient

Proposed changes to the NSW Environmental Planning and Assessment Act

No sign of increased attention to social
impacts

Liquor and Gaming NSW

Required to consider social impact regarding every application for a new liquor licence

[s48 of the NSW Liquor Act 2007]

The Independent Liquor and Gaming Authority (ILGA)

makes decisions about applications for liquor licences which are considered contentious*

* As far as I can ascertain 'contentious' is undefined and seems to be a workload management device

ILGA publishes some of these decisions which they consider to be 'of interest'*

Application for	Packaged liquor licence	On-premises licence, e.g. restaurants	Hotels, clubs and small bars	Producer / wholesaler	All licence types
In 2016					
Granted	83	51	16	3	153
Refused	15	0	0	0	15
Total	98	51	16	3	168
% granted	85%	100%	100%	100%	91%

Source: ILGA Decisions of Interest, 2016

* As far as I can ascertain 'of interest' is not defined anywhere
 LGNSW website refers to 'certain decisions'

<https://www.liquorandgaming.justice.nsw.gov.au/Pages/ilga/decisions-of-interest/decisions-of-interest.aspx>

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ILGA refusals rely heavily on

SEIFA index, and

Alcohol-related reported crime statistics

In NSW, selling packaged liquor from a shop or home office is complying development (bypasses planning consent)

Application for	Licence to sell packaged liquor licence at retail premises	Licence to sell packaged liquor form a home office or similar	All packaged liquor licences	
			No.	%
In 2016				
Granted	50	33	83	85%
Refused	15	0	15	15%
Total	65	33	98	100%
% granted	77%	100%		

Source: ILGA Decisions of Interest, 2016

Online sales

- separate the point of sale from both dispatch and receipt
- make spatial preconceptions of locality (suburb, LGA etc.) irrelevant

Apparent divergence / common features

1. Preference for simplistic yardsticks
2. Reluctance to use health statistics or deal with public health directly
3. Over-reliance on the social gradient
4. Over-reliance on reported crime statistics

Assessment

Over use of simplistic indicators suggest discomfort with uncertainty and complexity

But uncertainty & complexity are the name of the game

Question

Is the pressure for certainty a cloak for pressure to abandon a proper assessment?