

LOCAL GOVERNMENT LAW JOURNAL

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ARTICLES

When talk is not so cheap – negligent misstatement for council pre-purchase and pre-development application information and advice – *John Watson*

This article considers the law of negligent misstatement in the context of South Australian local government. It argues that a duty of care extends to councils with a statutory requirement to provide pre-purchase information or whose standard practice is to informally advise the public prior to the purchase of land or the lodgment of a development application. Moreover, the article evaluates the vexed question of the standard of care required in discharging this duty; whether the council should be adjudged against the hypothetical conduct of a reasonable council, a reasonable officer, or a professional, and what precautions should be implemented to satisfy the relevant standard. It also discusses how the council's liability with respect to a loss of a chance to pursue a commercial opportunity consequent on the provision of negligent information or advice.

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Minority religious groups and development consent for places of public worship in New South Wales: Does discrimination law hold the answer? – *Giridhar Kowtal*

This article explores the application of racial discrimination laws to planning. Using a case study of a recent application to construct a place of public worship in New South Wales, it finds that requirements in planning laws for places of public worship to preserve an area's "rural character" can be used as a legislative device to found a discrimination claim. Although planning laws and regulations are racially neutral on their face, they have consistently been used to enforce decisions that are discriminatory in effect. Recent case law emphasises that the relevant test for determining whether a law is discriminatory is whether it is discriminatory in effect. This means that a State law that does not refer on its face to members of a particular race may nevertheless be found to be racially discriminatory if it has the effect of being racially discriminatory by using the "comparator" test in the *Racial Discrimination Act 1975* (Cth).

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Alcohol is a planning issue – *Alison Ziller, Bonnie Rosen and Shaun Walsh*

Land use planning has long had a tentative approach to licensed premises. This is partly due to the presence of licensing authorities with specific statutory responsibilities, but partly it is due to perceptions among some decision-makers that health is not the mandate of planning. Nonetheless, planning decisions directly affect risks of alcohol-related harm and the social costs of this harm in terms of public health. This article shows the relevance of both proliferation of outlets and customer catchments, including those based on driving, to alcohol-related harm and to planning authorities' responsibilities to foster safe and healthy land use environments.

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