

DRAFT NOTICE OF APPEAL

COURT DETAILS

Court Supreme Court of New South Wales, Court of Appeal
Registry Sydney
Case number

TITLE OF PROCEEDINGS

Appellant Independent Liquor and Gaming Authority
Respondent Area Hotel UT Pty Ltd

PROCEEDINGS IN THE COURT BELOW

Title below Area Hotel UT Pty Ltd v Independent Liquor and Gaming Authority
Court below Supreme Court of New South Wales
Case number below 2021/00356547
Date of hearing 16 November 2022
Material date 5 June 2023
Decision of McNaughton J

FILING DETAILS

Filed for Independent Liquor and Gaming Authority, Appellant
Filed in relation to Whole of the decision below in relation to 2021/00356546
Legal representative Karen Smith, Crown Solicitor for NSW
Legal representative reference 202302036 T01
Contact name and telephone Andrew Bell (Andrew Bell(02) [REDACTED])
Contact email [REDACTED]

HEARING DETAILS

This notice of appeal is listed for directions at

TYPE OF APPEAL

Administrative law

DETAILS OF APPEAL

1. This appeal is brought with leave under s. 101(2)(r) of the *Supreme Court Act 1970*.

2. Leave to appeal was granted on _____.
3. The appellant appeals from the decision below in relation to proceedings 2021/00356547.

APPEAL GROUNDS

1. The Court erred in concluding that Conditions 3030 and 3040 imposed by the Independent Liquor and Gaming Authority on Hotel Licence LIQH [REDACTED] pursuant to s. 53(1) of the *Liquor Act 2007* (NSW) were beyond power.
2. The Court erred in declaring that, in determining an application for the leasing of gaming machine entitlements pursuant to Division 2A of Part 3 of the *Gaming Machines Act 2001* (NSW), questions of the possible or likely impacts on the local community are irrelevant.
3. The Court erred in declaring that, in determining a gaming machine threshold increase application in circumstances where, pursuant to s. 35(2) of the *Gaming Machines Act 2001* (NSW) a local impact assessment is not required, questions of the possible or likely impacts on the local community are irrelevant.

ORDERS SOUGHT

1. Appeal allowed.
2. Set aside orders (1)—(6) made by McNaughton J on 5 June 2023 and in their place order that the summons be dismissed with costs.
3. The respondent pay the appellant's costs of the appeal.

SIGNATURE OF LEGAL REPRESENTATIVE

I have advised the appellant that court fees will be payable during these proceedings. These fees may include a hearing allocation fee.

Signature of legal representative

Karen Smith, Crown Solicitor for NSW
Solicitor for the applicant

Capacity

Signed in my capacity as a solicitor
employed in the office of the said
Karen Smith

Date of signature

21 June 2023

NOTICE TO RESPONDENT

If your solicitor, barrister or you do not attend the hearing, the court may give judgment or make orders against you in your absence. The judgment may be for the orders sought in the notice of appeal and for the appellant's costs of bringing these proceedings.

Before you can appear before the court, you must file at the court an appearance in the approved form.

HOW TO RESPOND

Please read this notice of appeal very carefully. If you have any trouble understanding it or require assistance on how to respond to the notice of appeal you should get legal advice as soon as possible.

You can get further information about what you need to do to respond to the notice of appeal from:

- A legal practitioner.
- LawAccess NSW on 1300 888 529 or at www.lawaccess.nsw.gov.au.
- The court registry for limited procedural information.

Court forms are available on the UCPR website at <http://www.ucprforms.nsw.gov.au/> or at any NSW court registry.

REGISTRY ADDRESS

Street address	Supreme Court of New South Wales, Court of Appeal Law Courts Building Queen's Square Level 5, 184 Phillip Street Sydney NSW 2000
Postal address	GPO Box 3 Sydney NSW 2001
DX	DX 829 Sydney
Telephone	1300 679 272

PARTY DETAILS

A list of parties must be filed and served with this notice of appeal.

FURTHER DETAILS ABOUT APPELLANT[S]

Applicant

Name Independent Liquor and Gaming Authority

Address

4 Parramatta Square

Parramatta NSW 2150

Legal representative for applicant

Name Karen Smith, Crown Solicitor for NSW

Practising certificate number [REDACTED]

Firm Crown Solicitor's Office

Contact solicitor Andrew Bell

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SYDNEY NSW 2000

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DETAILS ABOUT RESPONDENT

Respondent

Name Area Hotel UT Pty Ltd

Suite 1 Level 2

97 Faulkner St

Armidaale NSW 2350