

# WHY STRATEGIC IA IS IMPORTANT FOR PROJECT-LEVEL IA

James Baines<sup>1</sup> and Nick Taylor  
Taylor Baines & Associates, Christchurch, New Zealand.

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In the practice of project-level SIA in New Zealand, a problem frequently arises due to the absence of strategic SIA at the level of policies, plans and programmes. Experiences are reviewed of SIA activities in a variety of settings - casino development, coastal development involving marine farms, and retail sector development in New Zealand. In many cases, issues are encountered through project-level SIA that really require attention at the level of policy or plan. This has the potential to create difficulties for decision makers working within the planning framework, for project proponents, and for practitioners of SIA. These difficulties are linked to issues of cumulative effects, the interpretation of sustainable development in a practical sense, and the responsibilities of public policy makers in setting the parameters for developers and communities to negotiate within.

## 1 Introduction

In New Zealand, there are two statutes under which social impact assessment (SIA) has typically been carried out. The most common setting for SIAs is in the procedure for gaining resource consents (planning approvals) for particular development projects, as determined by the Resource Management Act (RMA). This is the central piece of planning legislation, which is predicated on an assessment of effects in order to determine whether or not a project should proceed.

The Act aims to “promote the sustainable management of natural and physical resources”. Sustainable management is defined as “managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well being and for their health and safety ...”

Rather than focussing on activities themselves, the RMA is concerned with assessing and managing the effects of resource use on the environment. For a project to gain approval, adverse effects should be either avoided, remedied or mitigated such that the final proposal and its associated mitigating initiatives result in effects which are considered no more than minor.

The RMA is also the statute which mandates the preparation of district land-use plans and resource managements plans and policies, which generally provide the broader policy context in which individual projects are considered. Indeed, the RMA also mandates the preparation of national policy statements to provide the over-arching policy guidance from central government.

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<sup>1</sup> The authors can be contacted via the Taylor Baines website - [www.tba.co.nz](http://www.tba.co.nz). James Baines email address is [j.baines@tba.co.nz](mailto:j.baines@tba.co.nz)

In practice, this feature has been little used<sup>2</sup>. While all territorial local authorities have prepared regional policy statements and district land-use plans since the RMA came into force, the application of SIA in the preparation of these plans has been extremely rare.

The RMA defines the environment to include the social environment. The definition includes:

- ecosystems and their constituent parts, including people and communities,
- all natural and physical resources,
- amenity values
- the social, economic, aesthetic, and cultural conditions which affect the matters stated above or which are affected by these matters.

The Fourth schedule of the Act also sets out the principles of a consultative approach and procedure for assessment. It stresses consultation in the assessment of effects, by requiring that an assessment includes: “an identification of those persons interested in or affected by the proposal, the consultation undertaken, and any response to the views of those consulted”.

The second statute is the Casino Control Act. This Act sets out a procedure for deciding whether or not individual casinos should be established. It specifically requires that a social impact assessment be carried out as part of the procedure for gaining a casino site licence, to demonstrate that the casino will not have “unduly negative social impacts” on the place or region in which it is to be located. In Schedule E of its Guide to casino licence applications” the Casino Control Authority has laid out matters that should be addressed in the social impact report. There has to be:

- a general profile of the existing local and regional community surrounding the proposed casino development;
- identification of attitudes and concerns of the local and regional communities and organisations in respect to this particular site;
- identification of how, and the extent to which, the above attitudes and concerns arose from consultations with each community and organisation including the method of consultation and its outcome;
- identification of any anticipated positive and/or negative social and economic impacts (direct and indirect) on the local area during the establishment and operational phases;
- identification of the client groups it is anticipated will use the casino including projections of overall numbers both short and long term, frequency of visits, socio-economic profiles, and ratios of local residents, domestic and overseas tourists (including expected origins of tourists);
- proposals for lessening any negative impacts;
- any other submissions on social impact issues.

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One national policy statement in ten years - the National Coastal Policy Statement.

These requirements are in addition to those of the RMA in the normal resource consent process. In passing the Casino Control Act, the New Zealand Parliament in effect decided that new casinos were acceptable in this country, so long as they individually met the criterion.

Between them, these two pieces of legislation set the scene for a very large proportion of the planning-related SIA activity in New Zealand. With few exceptions, this SIA activity occurs at the project level.

## **2 The absence of strategic SIAs and why this is a problem**

As practitioners of SIA we frequently encounter difficulties in conducting project-level SIAs that can be attributed directly to the absence of strategic SIAs on related policies and plans, including new legislation.

In our experience, these problems arise for two inter-related reasons. One reason is that it is difficult, if not impossible, to address any kinds of cumulative impact of new activity in an analysis which focuses just on one particular project. Such ad hoc assessment makes it difficult to address cumulative impacts in a way that is seen by affected parties as sensible. It makes no sense to determine thresholds of acceptable levels of impact for one project when there may well be other similar projects joining the queue before long. In these circumstances, practitioners become prisoners of incrementalism. The second reason is that in carrying out project-level SIAs, we frequently encounter issues that are essentially policy-level issues - for example, the appropriateness of existing rules governing resource use in general, or the use of land or water space in particular (i.e. zoning rules); or the appropriateness of compensation as one of a suite of possible mitigation measures. It is hardly surprising that such issues continue to arise in each project when they have not been adequately addressed at the plan or policy stage. This is not to say that the issues of appropriate resource use or compensation were not thought about at all at the plan or policy stage; rather that the social consequences of existing arrangements and rules were not investigated - no SIA was carried out. As practitioners, we acknowledge that it is rarely a good idea to be setting precedents (i.e. determining new arrangements or alterations to established patterns and rules) in an ad hoc fashion. The community is entitled to expect a degree of consistency and certainty in the way each individual project is assessed. The consistency and certainty comes about from having addressed the common and generic issues at the plan or policy level. For this to happen, the contribution from SIA needs to occur at the plan or policy level as well.

These two problems are clearly inter-related. Risks from incrementalism in project assessment and setting precedents in an ad hoc manner are two sides of the same coin. Furthermore, these problems create difficulties not just for IA practitioners. The involvement of project proponents, affected parties and decision makers in the resource management and planning process is made more difficult and risky by the lack of connection between project assessments and policy and plan assessments. We believe this is as true for EIA as it is for SIA.

We will now illustrate and elaborate with examples from our experience in three different sectors of planning and impact assessment in New Zealand - marine farming applications, patterns of urban retail development, and the licensing of casinos.

### 3 Applications for coastal marine farms

The managed farming of shell-fish species in relatively sheltered coastal waters is a rapidly growing industry in several parts of New Zealand. It can be a very profitable business and is founded on a system of applications to occupy and use public water space. The existing resource management regime operates on an essentially 'first come, first served' basis, for which the competition within the industry is considerable. However, despite the fact that it creates a significant number of new jobs and thereby sustains or revitalises numerous small coastal communities, in its rapid expansion, the marine farming industry is not surprisingly generating conflict with people and communities who have used or enjoyed the same public water space for many years.

Cumulative impacts arise in a variety of ways. As applications for more and more marine farms are granted and the space given over to this activity grows, several sets of impacts compound. Some of these concern competition with other water-based activities such as commercial fishing (the marine farm structures can prevent trawling operations altogether, or reduce the space available to trawl), recreational boating (the marine farm structures may interfere with the existing patterns of recreational activity of powered or sailing craft; they may also provide additional opportunities for recreational fishing), tourism and particularly eco-tourism (increasing areas of marine farm structures progressively convert 'open space' into 'industrial space'). Other changes are the visual impacts on landscape and seascape which accumulate in scale and intensity with increasing numbers of farms. Then there is the issue of nutrient utilisation affecting the sustainability of marine ecosystems and the viability of existing marine farms as each additional increment of utilisation moves closer to the limits of renewability.

The question in all these instances is what is an appropriate threshold? How should such competition for use of the water space be managed? These issues are at the heart of SIAs, which have generally only been carried out at the project level.

And yet, in considering the significance of the impacts and making decisions, questions of context are vital -

- what are the options for managing competition - a balance within each bay or distinct area of coast versus a mix of bays - some with and some without marine farms?
- how do you determine thresholds of acceptability - allow no applications; allow the first application and no others until impacts are known with more certainty; allow numerous applications in an incremental manner until the opposition from affected parties reaches a threshold!? or determine at the strategic level a policy response and set of guidelines within which marine farm applications will be considered?
- different compromises may be acceptable depending on whether the applicant pays a resource rental for occupying the water space or not, but how can these alternatives even be considered without setting a precedent that may have ramifications for all other existing marine farmers?

Considering cumulative impacts and the range of possible mitigation options at the strategic level would take much of the heat out of these planning problems. This requires proper assessment of the resource management plans and policies that have a bearing on the use of these coastal

water spaces, and Strategic SIA should be a part of that proper assessment. At the moment, the adversarial setting of the Environment Court is being used to set the strategic parameters by default.

#### **4 Planning for urban retail development**

The RMA does not allow considerations of market competition to influence decisions about where individual developers may site new retail developments in a city. However, SIA of retail development indicates clearly that the implications of retail location are not limited to retail (market) impacts alone; there are social and community impacts which flow from the individual decisions of retail investors and developers. This is particularly evident if a long-term view is adopted in the assessment, which can capture the cumulative effects arising from the intermingling of consumer and leisure activities.

The point to note here is that each single project-related SIA for large retail development is less likely to identify the full extent of the social consequences because it is necessarily more limited in terms of its spatial and temporal coverage. Once again, it is difficult to make a meaningful assessment in incremental terms. Furthermore, in this incremental situation, it is very unlikely that SIA can influence the choice of location; this is much more likely to be determined by analysis of market factors, consumer catchments and spending power. However, choice of location does have a bearing on the extent to which the new retail development will support existing social amenity values or detract from them.

If there is to be any notion of deliberate urban form - adopting a centres-based approach to urban development, or not - then this must be reflected in the policies, plans and rules which set the general parameters within which individual retail developers make their own decisions. Logically then, if SIA is to be applied in the context of planning for urban retail development, it should be applied to the policies, plans and rules, not just to individual large-scale retail developments. If a particular approach to urban development is to be encouraged (at least in part) on the grounds of social and community considerations, the assessment (SIA) and rationale needs to be worked out at the strategic level, not in an ad hoc manner.

In New Zealand, we are only very slowly beginning to accept this problem. Very few SIAs have been done on the original preparation of District Plans. However, there are cases where proposed plans have been taken to the Environment Court to debate policies and rules that embody a centres-based approach to the future siting of retail facilities. One such case was around the North Shore City Plan in the Auckland metropolitan area<sup>3</sup>.

Strategic SIA work in Auckland and Christchurch has examined the development of shopping centres, large malls, and stand-alone shopping facilities, their relationships with their host communities, and their effects on the social environment (Baines et al., 2002). These SIAs show that spaces built for retail purposes fulfill both social-cultural and economic processes. Integrated shopping centres provide an opportunity for new patterns of consumption and social

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<sup>3</sup> Discussed in the evidence of Dr Douglas Fairgray and of Dr Nick Taylor to the Environment Court, in *St Lukes Group Ltd v North Shore City Council A41/2001*.

behaviour, particularly leisure and recreation. They are places to recreate, exercise and socialise, as well as to purchase goods and services. Retail centres, including those with modern malls, take on this integrated role. They become the focus for the suburb or suburbs that they serve, with a range of retail activities, plus restaurants, cafes and entertainment, social services and community facilities such as doctors, dentists, swimming pools, libraries, and schools in close association with the retail area. Overall, shopping centres are a focus for community life and people visit them for a large number of reasons other than shopping. In the North Shore case, encouragement of viable, existing centres as accessible focal points through the District Plan was supported by the Environment Court<sup>4</sup>.

## 5 Licensing of new casinos

The case of casino licensing is a little different. In this case, the legislation in question - the Casino Control Act - did two things which we suggest were inherently contradictory. The Act stipulated a requirement explicitly that a social impact assessment be prepared as part of any casino licence application. It thus provided a mechanism, in principle, to ensure that if a new casino licence was to be approved, this would happen only if the decision makers were satisfied there would not be any 'unduly negative social impacts'. Which of course requires value judgements to be made, and value judgements in this far-from-precise domain are very influenced by context. Enter the Act once again.

The second thing that the Act did was essentially to sanction at a general level the licensing of any new casinos in New Zealand. The passing of the Act was widely interpreted to imply that, in the context of existing patterns, levels and trends of gambling in New Zealand, it was still acceptable in the eyes of New Zealand politicians<sup>5</sup> and therefore the voting public at large, to consider new gambling opportunities, even large new gambling opportunities such as casinos. The irony in this was that Parliament passed the Act without ever commissioning an SIA of existing gambling in New Zealand<sup>6</sup>.

Thus, SIA practitioners find themselves faced with a dilemma on a case-by-case basis (Baines and Taylor, 1998). The dilemma arises because the Act is so permissive in nature. If the social consequences of casino gambling are considered in comparison to the social consequences from other forms of gambling, it is virtually impossible<sup>7</sup> to reach a finding that the social impacts from a new casino are 'unduly negative', relatively speaking. This is the case, we suggest, even if

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<sup>4</sup> Bollard R J in *St Lukes Group Limited v North Shore City Council (A41/2001)*.

<sup>5</sup> A moratorium on new casino licences has been in place now for more than two years, resulting from a subsequent decision by Parliament.

<sup>6</sup> In 1999, the Casino Control Authority commissioned an SIA of casino operations nationally. Since then, a wide-ranging review of all gambling and gaming in New Zealand has been initiated by the government.

<sup>7</sup> Because vulnerability to problem gambling is much greater for some groups within the community than others, it might be possible to reach a different conclusion of the potential host community exhibited an over-abundance of particularly vulnerable groups.

there is very strongly articulated opposition to a new casino from within the local community. The Act provides no basis on which to assess any critical threshold of unacceptable social costs when casino impacts are considered in isolation. It is only when the social costs of all gambling and gaming activities are considered together (even within a single community) that such a threshold of acceptability can even be considered.

## **6 Problems for participants in the planning process**

The absence of agreed thresholds for incremental and cumulative impacts, and unresolved debates about resource management rules or the need for rules which are not ad hoc, create problems for many participants in the planning process.

These deficiencies create problems for decision makers whenever there are no benchmarks of acceptability and no power to decline specific projects in the absence of a process for taking into account community values on strategic-level issues. They create problems for applicants for resource consents who are forced to address strategic-level issues with each individual application and therefore have to carry the costs time and again. They also create problems for SIA practitioners who become the meat in the sandwich, finding that some issues (sometimes the most important issues) cannot be addressed in the project-level assessment even though they are bound to be raised in the assessment process. This has implications for the integrity of the SIA process.

These difficulties are linked to issues of cumulative effects, the interpretation of sustainable development in a practical sense, and the responsibilities of public policy makers in setting the parameters for developers and communities to negotiate within. They need to be addressed at the strategic level in the planning process.

## **7 Possible benefits from strategic application of SIA**

Planning processes always have the potential to be contentious. Similarly, individual project applications are inherently risky. They can also be costly to prepare and submit. Given these considerations, greater use of strategic social assessment (SSA) may offer some benefits.

Cumulative impacts are difficult to address in an ad hoc way at the project level and thresholds of acceptability are difficult to determine on an ad hoc basis. There may also be issues directly related to the wider institutional setting (e.g. compensation obligations) which are difficult to address in an ad hoc way at the project level. For these reasons, SSA will be useful for anticipating common issues, addressing cumulative impacts, and establishing agreed thresholds or principles for guiding subsequent project-level applications.

SSA can also be used to develop practice guidelines to address the requirements for project-level assessments, such as the provision of social and community infrastructure in urban subdivision, or social-service requirements for certain types of gambling facilities. These sorts of guidelines should lead to more even approaches to negotiations with existing communities.

SSAs will generally be carried out on behalf of a public agency, and therefore publicly funded. This has several important potential benefits. Firstly, in taking responsibility for giving more guidance to individual applicants, and helping to set a better rule and threshold framework, this represents a fairer distribution of the risks and costs of development planning between private and public sectors. Secondly, there is a greater chance that publicly-funded SSAs will be perceived as being more neutral and less biased than privately-funded project SIAs, even if this is not the reality. Our experience is of an increasing tendency to challenge the integrity of information provided in SIAs and of the practitioners themselves, as a means of attacking an opposing viewpoint in the increasingly litigious environment of planning procedures in New Zealand. This only adds to the tension between cost and thoroughness of project SIAs which are largely the responsibility of private developers.

In general, we believe there are opportunities for cost sharing between private applicants and public agencies over the basic gathering and analysis of data that will be of common interest. These opportunities are largely ignored at the present time. The situation is that private applicants carry the costs of providing most of the new empirical data that local authorities subsequently rely on.

## **8 Conclusions**

Greater use of the Strategic Social Assessment of policies and plans will lead to a more efficient, effective and equitable planning procedures by -

- providing guidelines for project-level SIAs - what issues and effects to focus on; what are considered important issues and effects in the wider community?
- helping to set rules and thresholds within which individual applications can be lodged, against which individual applications can be assessed; and
- sharing the costs of development planning more equitably between the private sector and the public sector.

## **References**

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