

HATZIS CUSACK LAWYERS

Liquor & Gaming Specialists

Our Ref: TH:MS:00831
Your Ref:

4 August 2017

By email: cis.evaluation@justice.nsw.gov.au

Dear Sir/Madam,

**RE: EVALUATION OF THE COMMUNITY IMPACT STATEMENT
REQUIREMENT**

We previously met with Peter Cox and Luke Ryan and discussed at some length our experience in relation to the CIS process.

At the conclusion of that meeting, we advised that we proposed to file a submission with the Department and subsequently requested an extension until today to do so.

We had hoped to be in a position to provide a more detailed submission however, time has not permitted us to do so. We have set out below some matters to be taken into consideration, which were touched upon at our meeting.

1. CIS process in relation to applications for the removal of a hotel licence and packaged liquor licence

- 1.1. The former Liquor Act required the filing of a Social Impact Assessment (“SIA”) in relation to certain applications. The Act and Regulation provided for two forms of SIA being a Category A SIA (the simpler form of SIA), and Category B SIA (the more comprehensive SIA).
- 1.2. The Act/Regulation required a Category B SIA to be filed in respect of an application for the grant of a hotel licence or packaged liquor licence (then known as an “off-licence (retail)”). However, in respect of an application for the removal of a hotel licence or a packaged liquor licence, and where other specified criteria applied, only the simpler form of SIA being a Category A SIA was required.
- 1.3. In this regard, Clause 18B(2) of the former Regulation (copy **attached**) provided that only a Category A SIA was required if the relevant application:
 - (a) Only sought to remove the licence within a certain specified distance; and
 - (b) The trading hours at the proposed premises were to be the same or more restricted than the trading hours that applied at the existing premises; and
 - (c) The conditions of the licence concerned were not being varied unless the variation related to a condition that related to a matter that was specific to the location of the existing premises; and

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- (d) The total area of the proposed premises would not exceed the area of the existing premises by more than 10%.
- 1.4. The Liquor Act 2007 treats an application for removal as if it were an application for a new grant (Section 59(3)). Therefore, an applicant for the removal of a hotel licence or packaged liquor licence is required to undertake the same process as that of an applicant for the new grant of a licence, even in circumstances where it may be only proposed to remove the licence to premises a short distance.
- 1.5. As discussed at our conference, where a licence is being removed and the above circumstances apply, then because of the lower risk, it is suggested that the requirement to provide a CIS be either dispensed with altogether or that only a Category A SIA rather than a Category B SIA, be required.

2. Advertising Requirements

- 2.1. As discussed at our meeting, in circumstances where the proposed licensed premises are situated in a location where there are a number of high-rise residential apartment buildings and/or high-rise office buildings, or the proposed licensed premises are located within or near to a large shopping centre, the notification requirements can be quite onerous and could service of well over 1,000 occupiers.
- 2.2. In relation to secure residential buildings, it can often be difficult gaining access to the building and to mailboxes within such buildings, to ensure all occupiers are served or to ascertain the number of occupiers even if those persons are to be served by post.
- 2.3. Consideration might be given to amending the requirements (potentially also at the application stage not only at the CIS consultation stage), so as:
- (i) In the case of a shopping centre to only be required to serve notice on centre management;
 - (ii) In the case of a residential apartment building, to only be required to serve notice on the owners corporation;
 - (iii) In the case of an office building, to only be required to serve notice on the building manager.

Should you have any queries or require any additional information as a result of the matters arising above, please do not hesitate to contact our office.

Yours faithfully



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