

NSW Business Chamber Community Impact Statement

Evaluation of the Community Impact Statement for Liquor Licence
Applications

July 2017

Overview

The NSW Business Chamber welcomes the opportunity to comment on the evaluation of the Community Impact Statement (CIS) for liquor licence applications.

The NSW Business Chamber is one of Australia's largest business support groups, with a direct membership of more than 20,000 businesses, providing services to over 30,000 businesses each year. Tracing its heritage back to the Sydney Chamber of Commerce established in 1825, the NSW Business Chamber works with thousands of businesses ranging in size from owner-operators to large corporations, and spanning all industry sectors from product-based manufacturers to service provider enterprises.

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Our agenda for regulatory reform

Excessive and bureaucratic regulation is consistently cited as one of the top impediments to business growth and success. Tackling the issue of red tape is not however about letting businesses do whatever they want, but rather it is about reducing costs that are unnecessary and can be avoided.

With current levels of regulatory burden ranking Australia 80th out of 140 countries (according to the Global Competitiveness Index 2015-16)ⁱ, the Chamber believes that more must be done to ensure it is easier to do business in NSW.

In 2016 the Chamber surveyed its members to gather views on the regulatory challenges facing NSW businesses. From this survey, we estimated that NSW businesses are weighed down by around \$10.6bn in compliance costs each year.

While we understand and appreciate that all of these costs cannot be removed, the Chamber strongly advocates for governments to make things better by applying best practice regulation design and getting rid of unnecessary complexity.

The current review of liquor licensing arrangements provides an obvious opportunity to achieve a simpler, more straightforward and more effective mechanism to meet both community expectations in terms of potential harm from licensed premises as well as businesses' need to operate effectively.

Introduction of the Community Impact Statement

The CIS was introduced as a key feature of the *Liquor Bill 2007*.

Developed following 2 years of consultation, the CIS would replace the previously required social impact assessments that had been criticised for being costly, confusing and time-consuming for licence applicants, residents and other stakeholders.

The second reading speech of the amending bill indicated that the object of the CIS:

“...is to facilitate consideration by the authority of the impact that the granting of certain applications will have on the local community. It does this by providing a process in which the authority is made aware of the views of the local community, and the results of any discussions between the applicant and the local community about issues and concerns. Community impact statements will gauge potential impacts, especially of new hotels, general bar hotel licences, clubs, bottle shops and other potentially high-impact licensed venues on local communities. Licensed venues, including restaurants and entertainment venues, seeking extended trading hours past midnight will also be subject to the new process.”

The second reading speech also suggested:

“One aim of the new process will be to minimise time and costs. The Government will examine how Community impact statements can be linked into the planning process to reduce duplication as much as possible.”

And that:

“Applications will need to be advertised, and also the local council will need to be advised. To complement the community impact statement process an assessment will be prepared for the authority by the Director of Liquor and Gaming taking account of health, population, crime and other relevant data. This assessment will be applied to all community impact statements.

Applications where a community impact statement requires further detail will also be required at the authority's request. The new community impact statement process will relieve applicants from having to obtain large amounts of data and prepare complex and costly assessments, so they can focus on consultation with the local community. Bringing the assessment process in-house will facilitate a more objective process that can better meet the needs of the authority.”

With the CIS framework having been in place now for more than 10 years, it is appropriate that it now be reviewed to ensure it remains fit for purpose.

Is the CIS process necessary?

The current review provides an opportunity to consider whether at a first principle level, the CIS process is appropriate or indeed necessary.

It is the Chamber's strong view that regulation should not be the default option for policy makers, but instead only be used where regulation provides the greatest net benefit to the community.

In addition, where regulation is required, the principles of efficiency, simplicity and effectiveness should guide the design and operation of the regulation.

As recognised in the discussion paper, the CIS consultation process shares similarities with other stakeholder consultation requirements. In particular, CIS shares many

similarities with the consultation processes set out under the *Environmental Planning and Assessment Act 1979* for new or modified development applications (DA).

Despite these similarities, there is no capacity for a proponent of either a new development to rely on a previous CIS consultation for evidence of community support for a development and vice versa. This leads to potential duplication and unnecessary complication in both processes and fails to meet the intent of lawmakers during the introduction of the CIS that:

“The Government will examine how Community impact statements can be linked into the planning process to reduce duplication as much as possible.”

Furthermore, while the discussion paper provides data on the number of applications which required an accompanying CIS, there is no data provided on how the CIS materially changed a licence application.

In the absence of this data, which would help evaluate the effectiveness of the CIS as a standalone community engagement tool, it is the Chamber’s view that ideally, a single process should be utilised for both CIS and DA community consultations.

If this cannot be achieved, then a more streamlined process, through a one stop shop, such as was developed through the Easy to do Business pilot program for cafes, small bars and restaurants by Service NSW should be considered.

While such an approach would not reduce the stock of regulation on businesses looking to change their licence conditions, by simplifying the process it would reduce the burden and complexity of compliance.

Learning from other jurisdictions

Additionally, the OLGR should consider the approach taken to consultation requirements in other Australian jurisdictions licensing regimes.

In Victoria, a licence applicant is only required, similar to a development applicant, to place a public notice displaying their application on the proposed licensed premises to satisfy the requirements of consultation. By displaying this notice Victorian licence applicants are not then required to specifically notify (and demonstrate that they have notified) certain stakeholders, as is the case in NSW.

In addition, when considering feedback from the community on a proposed licence, the Victorian Commission for Gambling and Liquor Regulation considers any objection to a licence approval on the basis of the underlying zoning of the land on which the licence will operate. This is a sensible approach and emphasises the primacy of the Local Environmental Plan in determining activities in a given area.

Innovation in consultation

Feedback received from licence holders has indicated that there is significant time and cost in engaging in the current consultation process. The Chamber has heard from some licence applicants who chose to utilise the services of a solicitor to undertake the consultation to ensure they meet all legislative requirements. Clearly these processes could be simplified for business owners to navigate.

An alternative approach that could be considered would be to allow licence applicants to utilise different consultation methodologies in making their application.

The Chamber has previously expressed concern with the traditional “self-selected” approach to consultation (whereby any community member can select to put forward a view on a proposal, despite not being directly affected by it).

The Chamber notes the experience of the New Democracy Foundation in working with the City of Canada Bay Council in developing “*citizen’s panels*”ⁱⁱ.

These panels utilise a randomly selected consultation group from the community (as opposed to a self-selected group) to consider and assess a range of development proposals and policies within the Canada Bay LGA.

The OLGR should consider allowing a similar type panel be provided to applicants as an option to satisfy the consultation requirements under the current framework.

ⁱ <http://reports.weforum.org/global-competitiveness-report-2015-2016/>

ⁱⁱ <https://www.newdemocracy.com.au/ndf-work/185-city-of-canada-bay-policy-panel>