

# A response to the CIS Discussion Paper

Alison Ziller

Emailed to: [cis.evaluation@justice.nsw.gov.au](mailto:cis.evaluation@justice.nsw.gov.au) on 17 July 2017

---

A basic problem with both the CIS A and the CIS B forms is that they are wrongly named. A 'Community Impact Statement' sounds like a social impact assessment but these documents are just a questionnaire asking the applicant to tell the Department who has been advised that a liquor licence application is being made, which services are accommodated in buildings close to the premises, and any feedback that has been received. This information is worth having but it is not an SIA.

Some applicants attach a document, called an SIA. These documents make the applicant's case for the application to be granted. They are not SIAs for the purposes of s48(5) the 2007 NSW Liquor Act.

The Department asks:

## **1 Are community stakeholders being appropriately consulted?**

1. Consultation by the applicant is effectively undermined by
  - the applicant's financial interest in the application,
  - the fact that the applicant can summarise feedback.
2. Notification by ILGA on its Noticeboard has several shortcomings including:
  - categorisation by suburb errors
  - reliance on a single notification method (the Noticeboard).

The Department asks:

## **2 Is the information collected during the CIS process useful?**

The information is not very useful because it can't be relied on.

- Frequently information in a CIS is incomplete (e.g. services in proximity are often incompletely itemised)
- Community feedback in the CIS is summarised by the applicant and there is no way of knowing whether the summary is accurate or complete.

As well, the information is not useful because it refers to too small an area. It is particularly inappropriate to rely on information about and consultation with stakeholders in small areas (e.g. the required notification area of 100m, the suburb in which the site is located) around a proposed premises when this bears no relationship to the likely customer catchment. This concern applies to all liquor licence applications and particularly to:

- Large bottle shops whose trade area extends for many kilometres
- Online packaged liquor outlets whose customer catchment is often estimated by the Authority or its Delegate as the whole of NSW or several local government areas
- Hotels and clubs with a large customer catchment.

The Department asks:

### **3 Are there opportunities to cut red-tape and minimise delays from the CIS process?**

Assessing likely risks to public health is not red tape and risks to public health deserve proper consideration which has to take at least some time.

However, CIS forms are particularly inadequate as SIAs. The Department could reduce the burden on applicants by discarding CISs and instead requiring applicants to

- i provide the premises plan in their application and information about site, location, trading hours and anticipated customer catchment of the proposed outlet on the basis that this information would be published on the Liquor and Gaming Noticeboard
- ii publish notice of the application at the site and in the locality in prescribed ways so as to add to the publication on the Liquor and Gaming Noticeboard
- iii direct all feedback to the Department rather than to the applicant so as to avoid the applicant's financial conflict of interest.

The Department asks:

### **4 Are there opportunities to minimise overlaps in community consultation processes across local and state government?**

The suggestion seems to be that community consultation could all be done at development application (DA) stage. There are serious problems with this idea.

- i A single consultation process at DA stage would provide more open access to some information (e.g. planning details submitted, objections

and applicant responses) – **but only where the council has a DA tracker system in place.** Not all councils have DA tracker.

- ii Even where it is available, relying on DA tracker would mean Liquor and Gaming NSW was relying on councils to keep information on DA tracker accurate and up to date. Experience shows that councils find this difficult when there is a high volume of community feedback, e.g. re. contentious liquor licence applications.
- iii Council DA notification requirements are highly variable and this would mean that in some councils notifications would be much more comprehensive than in others.
- iv Local government authorities typically do not have staff with liquor licence planning expertise and this subject is not part of most planning curricula. As a result, planning departments often provide poorly informed advice to community members about development applications which involve a liquor licence.
- v Some liquor licence applications rely on existing use rights and some (e.g. online PLLs, some bottle shops) fall under the Exempt and Complying Development SEPP. These liquor licences do not require a DA and so the council does not instigate consultation processes. Liquor licence applications for vessels do not require a DA. This would mean that there was no community consultation for these liquor licence applications and no procedural fairness.
- vi Development applications can be delayed, sometimes repeatedly, at the planning stage. Planning consent may impose conditions not envisaged in the original application. Planning decisions are subject to appeal in the NSW Land and Environment Court. These may take many months to finalise. Relying on consultations undertaken at DA stage would mean Liquor and Gaming was relying on community feedback that is likely to be no longer relevant and/or out of date.

The Department asks:

**5 Are the separate CIS categories (A and B) necessary and appropriate?**

No

- These categories suggest that licence type is the determinant of social impact whereas social costs and benefits are determined by the

interaction of the licence type and a number of other factors, including: customer catchment, outlet density, and other contextual factors such as trading hours of nearby premises.

- The Category A CIS reduces notification requirements and creates the impression that approval will be automatic (particularly in the context of the current 100% approval rate). Automatic liquor licence approval is not envisaged by s48(5) of the Liquor Act.

The Department asks:

## **6 What types of liquor licences and authorisations should be required to complete a CIS?**

The CIS forms are not particularly useful. The information they contain has to be checked for accuracy and completeness, taking account of the applicant's financial interest.

Liquor and Gaming NSW has easy access to the published data needed for an SIA as well as to its own licensing data. It does not need the applicant to obtain this.

Applicants should be required to provide some information in their liquor licence application (e.g. site and street plans, anticipated customer catchment). Applicants should also be invited to make their case for a liquor licence. This information should not be called an impact statement.

### **Good practice**

Section 48(5) of the 2007 NSW Liquor Act places responsibility for a social impact assessment of a proposed liquor licence on the Independent Liquor and Gaming Authority and this section applies to every liquor licence application.

A sound social impact assessment process by the Authority should have the following elements

- a Traditional and modern notification methods
- b Enough time for stakeholder response
- c Decision making criteria (e.g. making it clear that retailer profits are not the same as social benefit)
- d Publication of the applicant's case, all stakeholder inputs and new information provided in response or reply
- e Publication of decisions.