LIQUOR STORES ASSOCIATION NEW SOUTH WALES

SUBMISSION

By the Liquor Stores Association NSW

To: **NSW Department of Industry: Liquor & Gaming NSW**

In response to: **Regulatory Impact Statement: Proposed Liquor Regulation 2018**

Date: **July 2018**

Liquor Stores Association of New South Wales Incorporated
PO Box 6261, Alexandria NSW 2015 **T**: 02 8335 3200 **F**: 02 9317 2051 **W**: lsansw.com.au
Suite W3G, Building 2, Sydney Corporate Park, 75 – 85 O'Riordan Street, Alexandria NSW 2015

Member of the Australian Liquor Stores Association

LIQUOR STORES ASSOCIATION NEW SOUTH WALES

24 July 2018

2018 Remake of the Liquor Regulation
Liquor & Gaming NSW
GPO Box 7060
SYDNEY NSW 2001

Via email: policy.legislation@liquorandgaming.nsw.gov.au

LSA NSW SUBMISSION:
REGULATORY IMPACT STATEMENT: PROPOSED LIQUOR REGULATION 2018

To Whom It May Concern,

The Liquor Stores Association NSW (LSA) welcomes the opportunity to provide a submission in response to the ***Liquor Regulation Regulatory Impact Statement***, which we understand has been prepared to inform the consultation process for the making of the proposed Liquor Regulation 2018.

LSA understands the major objectives of these liquor laws (as set out under the Act), are to:

a) regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community;
b) facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality; and
c) contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.

LSA is also aware that in securing these objectives, the Act requires licensees have due regard to the need to:

a) minimising harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour);
b) encouraging responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor; and
c) ensuring that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

LSA's mission is to support, represent and provide leadership to its members for a responsible, sustainable, diverse, and professional retail packaged liquor industry. Integral to our role is the constructive advice, guidance and direction we provide to Governments, Agencies and other stakeholders on behalf of our members and the industry, to seek legislative outcomes that improve business viability and the regulatory environment, or at least reduce the impact of new regulation on our members' businesses.

Please find LSA's submission enclosed herewith, and I would be happy to provide any further information to support this submission, if required.

Yours sincerely,

Michael Waters
Executive Director

LIQUOR STORES ASSOCIATION NEW SOUTH WALES

About the Liquor Stores Association (LSA)

LSA has been the consistent voice of the NSW Retail Liquor Industry since 1961, and is a united industry body representing all retail packaged liquor retailers, whether they are an independent retailer, licensed general store or supermarket, corporate chain or online-only liquor retailer.

LSA's mission is *"to support, represent and provide leadership to its members for a responsible, sustainable, diverse, and professional retail packaged liquor industry".*

In order to achieve our mission, the LSA:

- Advocates for the interests of members and the industry;
- Effectively communicates with members and stakeholders;
- Provides members with access to commercial services;
- Maintains and elevates industry standards;
- Conducts professional development activities; and
- Develops the business of the association.

Ordinary Members include some of the most recognised and trusted companies and brands in the industry, ranging from independent family owned licensed general stores and supermarkets, independently owned and run liquor stores operating under banner groups such as Cellarbrations, Liquor Stax, Local Liquor, Liquor Legends, Porter's Liquor, Super Cellars and more, corporate chain liquor retailers including Endeavour Drinks Group and ALDI Stores, as well as a growing community of online-only liquor retailers.

Associate Members include banner groups, wholesalers, beverage manufacturers and suppliers, and other service providers.

Our sector directly employs around 17,500 people in NSW, including many trainees and apprentices who go on to make a career in liquor retailing, and is a significant contributor to the economy with an annual turnover of around $7 billion, generating an estimated $2 billion in alcohol taxation, over $700 million in State Payroll and GST revenues, plus over $2.5 million in annual licence fees.

LSA encourages a responsible approach to the service and consumption of alcohol by all stakeholders, including our retailer members and the communities they serve, and supports social and individual responsibility for all consumers.

To ensure the reputation of our sector and assist our members, LSA continues to promote standards of operation for its members well beyond the required standards of legal compliance, and has implemented a range of professional development, voluntary product and service control initiatives across our members' stores which are focussed on responsible supply and promotion of alcohol.

LSA works proactively with all stakeholders involved in the retail liquor industry – retailers, banner groups, wholesalers, beverage manufacturers and suppliers, other peak industry bodies, the many other service providers associated with the sector, as well as all applicable State Government departments and agencies concerning the retail packaged liquor sector.

LSA is a member of the Australian Liquor Stores Association – representing the national interests of the retail packaged liquor industry; the National Retail Association – Australia's largest and most representative retail industry organisation; the National Online Retailers Association – an influential business network providing a fresh outlook and a balanced, optimistic view of 'new retail' in Australia; and Associations Forum – Australia's leading organisation, assisting associations in governance, operations, membership and finances.

Assessment of options to achieve objectives of proposed regulation

LSA notes that in section 4 (pages 8 – 10) of the Regulatory Impact Statement (RIS), four options have been presented for consideration by stakeholders.

In principle at this point in time, the LSA is generally supportive of the intention of ***Option 1: Make the proposed Regulation***, however would suggest that a more appropriate title could have been *Amend OR Revise the existing Regulation*.

Liquor & Gaming NSW (the Regulator) has provided via the RIS proposed changes to the current Liquor Regulation, however this consultation process may lead to further amendments, or perhaps even additional considerations for possible inclusion.

LSA agrees with the Regulator that ***Option 2: Allow the current Regulation to lapse***, that the existence of an appropriate liquor regulation is necessary as a means of maintaining minimum compliance standards and requirements for the NSW liquor industry.

With respect to ***Option 3: Industry self-regulation or co-regulation***, the LSA would challenge the Regulator's recommendation (table on page 10) that a self-regulated or co-regulated model would equate to higher costs of implementation, and a lower / negative overall benefit.

LSA believes that Industry is capable of self or co-regulation, and has gone to great lengths over the years to promote standards of operation for its members well beyond the required standards of legal compliance, and has implemented a range of professional development, voluntary product and service control initiatives across our members' stores which are focussed on responsible supply and promotion of alcohol.

These efforts have contributed to a strong compliance record amongst the retail packaged liquor sector.

The Regulator's recommendation suggests that this approach is not achievable, implying that the Industry at large cannot be trusted by the communities they serve to sell and supply alcohol in a responsible manner, yet it is widely understood that governments are increasingly promoting self-regulatory options as part of a broader commitment to regulatory reform[1].

Government involvement in self-regulation can range from general policy guidance to more interventionist models, with government in a position to identify particular problems or social policy objectives and assist in designing a self-regulatory response to address them.

A common reason for self-regulation is the desire to raise industry standards. Self-regulation is a means to exceed minimum legal requirements and can also enhance understanding and compliance with regulations.

In a competitive environment strong incentives exist for businesses to continually improve standards and exceed benchmark service levels to gain market share. Raising industry standards often refers to the ability to deal with rogue players or poor reputation. The role of reputation can be very important to a business, particularly when the business is operating in a competitive environment.

According to The Treasury, a range of self-regulatory options are available to industry[2], including but not limited to: service charters, complaints handling departments and procedures, accreditation, licensing and membership certification, quality assurance systems, standards, codes and dispute resolution schemes.

For ***Option 4: Address matters through administrative procedures***, LSA appreciates that there would be limitations to this option, given the fact that the Act currently requires that regulations be made in some circumstances, and further, would not provide the necessary legal certainty.

---

[1] *http://archive.treasury.gov.au/documents/1131/HTML/docshell.asp?URL=08_chap7.asp*

[2] *http://archive.treasury.gov.au/documents/1131/HTML/docshell.asp?URL=04_chap3.asp*

Key considerations: Fees

Fees – Adjustments to reflect inflation:

LSA supports the principle of adjusting fees based on the Consumer Price Index (CPI), as it's probably the most important and considered economic indicator, and best known measure for determining cost of living changes.

Fees should reflect wider price changes in the economy, not only increases. It is possible for inflation rates to be positive, static or in some instances negative and as such, any adjustments made should reflect this if it is to be a true and reliable reflection of the 'real cost' to regulate and service the liquor industry.

With respect to comments made in the RIS (page 11) regarding fee pricing remaining unchanged since the year they were introduced to the Regulation, LSA reminds policy makers of the following facts:

- There are a total of 27 separate liquor licence application forms for various approvals and authorisations, applicable for Packaged Liquor Licence (PLL) holders;
- A fee is currently applicable for 15 of the 27 forms, ranging from $100 to $2,000; and
- From September 2014, all fees were increased by an average of 80.4%.

In considering the initial proposed fee increases where applicable to PLL in clauses 6, 7, 10, 11, 13, 16, 17, 126, and in Schedule 1, LSA draws attention to the following table:

Fee	Current Cost ($)	Proposed Cost ($)	% increase
6. Licence transfers	$350	$379	+8.3%
7. RSA fees			
• Renewal of competency card	$35	$40	+14.3%
• Issue of interim certificate	$70	$85	+21.4%
10. Base fee element			
• 3 or less PLL	$532	$543	+2%
• 3 – 9 PLL	$1,062	$1,084	+2%
• 10+ PLL	$2,123	$2,166	+2%
11. Compliance history risk loading			
• One offence	$3,000	$3,246	+8.2%
• Two offences	$6,000	$6,492	+8.2%
• Three or more offences	$9,000	$9,739	+8.2%
13. Location risk loading	$2,000	$2,164	+8.2%
16. Late payment fee	$100	$110	+10%
17. Application for reinstatement	Base fee + loading	$271	+8.4%
126. Application for review of disqualification by Authority	$500	$551	+10.2%
Schedule 1:			
• PLL application	$2,000	$2,201	+10%
• Limited licence (single)	$80 / $150	$88 / $165	+10%
• Limited licence (multi)	$500	$550	+10%
• 6-hour closure	$300	$330	+10%
• Authorisation	$100	$110	+10%
• Vary/revoke licence condition	$100	$110	+10%
• Transfer PLL (S60 or 61)	$700	$770	+10%
• Carry on business	$100	$110	+10%
• Approved manager	$100	$110	+10%
• Banning order	$100	$110	+10%
• Lease/sublease	$100	$110	+10%
• Change boundary	$200	$220	+10%
• Alter name of premises	$100	$110	+10%
• Trade on temporary premises	$100	$110	+10%

When reviewing the table, it is evident that it is being proposed that all fees listed would increase as part of the development of the revised Liquor Regulation 2018, with the proposed increases ranging from 2% to as much as 21.4%.

Given that most of these fees did increase in September 2014 by an average of 80.4%, despite commentary in the RIS suggesting otherwise, the LSA does not believe it is appropriate to propose any further increases, prior to applying any future annual CPI adjustments, and recommends that existing fees remain unchanged.

Context:

The last decade has seen the introduction of an unprecedented amount of new State & Federal legislation and regulations, which has increased costs and red tape for small business owners. Regulatory creep is becoming an increasingly significant issue for our members, where small incremental increases in regulation and restrictions on how our members operate, progressively cumulate to significantly impact on their business viability and their ability to service their customers' needs.

In a relatively short space of time NSW liquor retailers have had to come to terms with a 50% increase in the number of liquor licences, a reduction in overall alcohol consumption, plus a 30% increase in wage costs thanks to Federal Award Modernisation, so it's no surprise small business owners are confused, frustrated, and many are struggling to make ends meet.

It is against this background that as an Association we are concerned to ensure that government regulation does not, unnecessarily, cause further hardship on this industry.

One key area of concern facing small business owners in the NSW packaged retail liquor industry is the ever increasing regulatory red tape and administrative requirements that small business owners are required to understand and adhere to.

Liquor retailers are spending so much more time these days ensuring their businesses are 'complying' with constantly increasing and changing legislation and regulatory requirements, that less and less time is left over to actually go about their day to day business function and actually be retailers, and serve their customers, manage and develop their employees.

There are an exhaustive number of regulatory requirements and the cumulative cost impost for small business owners is significant – from application forms and fees, annual liquor licence fees, increased RSA certification costs, fees to purchase mandatory signage, to mandatory requirements to join and be an active member of their local liquor accord – ongoing administrative costs are exhaustive. In isolation, the individual fees are not significant, but cumulatively and when considering all other cost imposts, seem unjustified and unnecessary.

Schedule 1 – Adjustment of fees for inflation (new provisions):

LSA understands the reasoning and justification for the proposed introduction of 'fee units', and appreciates the intention to ensure there is a framework in place for updating fees annually by CPI and transparently informing industry of such changes.

However, the LSA believes it will do little to simplify industry's understanding of the fees. In fact, our opinion is that it will have the opposite effect, making it more difficult for industry understand and calculate.

Clause 9 – Pro-rata periodic licence fees for new licences (clause 5B of current Regulation):

LSA is supportive of the proposed approach to apply a pro-rata licence fee to newly approved licences that come into effect mid-way through the year.

Policy makers may also consider charging new applicants a full 12 month licence fee (e.g. $532 for a new PLL), and then applying the pro-rata to the second year on renewal of the licence.

Justification for this alternative approach is best understood and appreciated when considering the situation where a new licence is granted in January for example. The proposed approach suggests that no fee would be payable, however in the instance that the licence does not renew in the coming months, the effect is that there has been no proportionate contribution (other than the application fee, which is seemingly allocated towards the actual cost of processing the application) towards the fair and proportionate cost of regulating and servicing the industry, which even in a small way impacts on every existing licensee.

As demonstrated by the proportionately high number of online-only PLL (no walk-up condition) applicants entering and exiting the market each and every year, this alternative approach may result in the applicant giving further consideration to the process, and cost implications, prior to submitting their application.

Clause 34 – Large-scale commercial event applications (new provision):

LSA is supportive of the proposal to require applications for large-scale commercial events to be attended by 2000 or more patrons on any day, to be made to the Authority not less than 28 days prior to the first day of the event.

LSA is also supportive of the proposed application fees for limited licence applications that are considered large-scale (i.e. more than 2000 patrons), and appreciates that the current application fees of $80 (electronic) and $150 (non-electronic) are out of step with other Australian jurisdictions, and do not reflect the degree of regulatory effort involved in processing and assessing such applications.

With respect to the intent to not subject fundraising and not-for-profit events to the same requirements, LSA assumes that the existing application fees ($80 or $150) would remain applicable, and trust that strict guidelines and requirements would be maintained.

Annual liquor licence fees:

Annual 'risk-based' liquor licence fees were announced in 2014 and introduced in 2015, payable by all liquor licences in NSW, however within the last couple of years the language in relation to the annual fee scheme has changed from 'risk based' to 'user pays', now simply referred to as annual liquor licence fees.

LSA supports government measures that target harm reduction from alcohol and other violence. However, we remain disappointed that the annual liquor licence fee scheme diverts from these principles by penalising successful and responsible PLL owners simply for having multiple stores. The only way a PLL holder can reduce their risk is to close down stores, taking convenience, choice and competition for consumers out of the market.

We contend the current fee structure works against the well-publicised aims of government, *"NSW is open and ready for business and, as our only global city, is the best place in Australia to do business"* – which we understood to mean that government wanted to encourage business in NSW.

The licence fee structure also suggests the government believes that the risk profile increases as the number of PLL held by any one entity increases – regardless of their compliance history.

It is also baffling to understand why this same logic only applies to PLL and not to any other licence type.

LSA would like to ask the Regulator to substantiate this belief, as we are not aware of any evidence to suggest that risk escalates as the number of licences held by any single entity increases.

LSA would argue that the regulatory burden on the government should in fact reduce as the number of licences held by any one entity increases. Logically, the administrative and regulatory cost must be higher when having to deal with six separately owned and operated businesses, as opposed to dealing with one business which owns and operates six, 26, or more licences.

This fee structure unfairly penalises small, medium and large businesses in NSW, especially any operators which strive to be successful and grow their business and provides a clear disincentive for those operators who have successfully built their business on responsible, sound and efficient business practices, versus those operators who have a track record of poor compliance.

LSA recommends that government amend the base fee structure for PLL to reflect a more genuine measurement of risk, along with a more realistic approach to the administrative and regulatory burden.

- Consider reducing the base fee for PLL as the number of licences held by one particular entity increases, to reflect the reduced regulatory burden, or at the very least, keep the fees constant (at the minimum fee), regardless of the number of PLL held by one particular entity, consistent with how the base fees apply to other licence types;

- Consider giving PLL the ability to reduce their authorised trading hours (i.e. later opening time and/or earlier closing time), on application, which would in turn result in reducing their annual liquor licence base fee;

- Consider giving PLL the ability to increase their authorised trading hours (i.e. earlier opening time and/or later closing time), on application, which would in turn result in increasing their annual liquor licence base fee;

The Victorian liquor licence fee model operates in a similar fashion, whereby PLL have the ability to apply (on approval and payment of applicable 'risk fee') to trade during non-standard trading hours.

LIQUOR STORES ASSOCIATION NEW SOUTH WALES

Key considerations: Responsible service of alcohol training

Clause 58 – Definitions (clause 39 of current Regulation):

LSA has been a member of the Tiered Industry Training Framework (TITF) Industry Working Group since mid-2014, following the supported recommendations of the NSW Liquor Act 2007 review, and is appreciative of the consultative approach by the Regulator in this respect.

LSA has no concerns regarding the proposed changes to definitions under Clause 58 to support the rollout of the new tiered industry training framework.

Clause 59 – RSA requirements to sell liquor by retail on licensed premises (Clauses 40, 41 and 43 of current Regulation):

LSA recommends that all reference to 'manager' be amended to 'approved manager'.

Confirming our discussion during the recent stakeholder consultation meeting (24 July 2018), where LSA queried Clause 59(6) exceptions to subclauses (3) – (5), where the Regulator confirmed that 'approved managers' of such businesses where the licensee was a corporation would be required to hold a recognised competency card with a current industry RSA endorsement, current licensee RSA endorsement, or a current advanced licensee RSA endorsement.

Clause 60 – RSA requirements for crowd controllers and bouncers (Clause 42 of current Regulation):

In principle, LSA is supportive of the intention of this proposed approach as it seeks to improve the knowledge and understanding of responsible service of alcohol principles to appointed crowd controller and bouncers however LSA does not have any specific comments, given this would apply almost exclusively to on premise licence types.

Clause 61 – RSA requirements for RSA marshals (Clauses 42A and 42B of current Regulation):

For similar reasons per Clause 60, LSA does not have any specific comments, given this would apply almost exclusively to on premise licence types.

Clause 62 – RSA training to become licensee or manager of tier 1 licensed premises or tier 2 licensed premises (new provision):

LSA is supportive of this proposed new provision, which requires that licensees or approved managers to have completed a licensee or advanced licensee RSA training course before an application for an applicable licence is either granted, removed or transferred, or a new approved manager approved.

Clause 63 – RSA requirements for grant of limited licenses for large-scale commercial events (new provision):

LSA is supportive of this proposed new provision, requiring a limited licence applicant for a large-scale commercial event to complete a licensee or advanced licensee RSA training course before said application may be granted by the Authority.

Clause 64 – Secretary may require applicant for any licence to hold recognised competency card with licensee RSA endorsement or advanced licensee RSA endorsement (new provision):

LSA is supportive of this proposed new provision, providing the Secretary with a general discretion to require any applicant (or class of applicants) for a licence that is not a tier 1/ 2 premises to undertake licensee RSA training or advanced licensee RSA training.

Liquor Stores Association of New South Wales Incorporated
PO Box 6261, Alexandria NSW 2015 **T**: 02 8335 3200 **F**: 02 9317 2051 **W**: lsansw.com.au
Suite W3G, Building 2, Sydney Corporate Park, 75 – 85 O'Riordan Street, Alexandria NSW 2015

Member of the Australian Liquor Stores Association

Clause 65 – Secretary may require licensee or manager of any licensed premises to hold recognised competency card with licensee RSA endorsement or advanced licensee RSA endorsement (new provision):

LSA recommends that all reference to 'manager' be amended to 'approved manager'.

LSA is supportive of this proposed new provision, providing the Secretary with a general discretion to require any licensee (or approved manager) of a licensed premises, who is not a licensee of a tier 1 or tier 2 licensed premises to undertake licensee RSA training if the Secretary is of the opinion that the training will be effective in reducing the risk of alcohol-related violence or anti-social behaviour on or about the licensed premises.

Clause 67 – Interim certificates; Clause 68 – Issue of recognised competency card with endorsements; Clause 69 – Expiry of recognised competency card endorsements; Clause 70 – Renewal of recognised competency card endorsements (Clauses 39A and 39C of current Regulation):

LSA is supportive of the proposed changes, which outline how interim certificates and recognised competency cards are issued and their expiry and renewal.

Liquor Stores Association of New South Wales Incorporated
PO Box 6261, Alexandria NSW 2015 **T**: 02 8335 3200 **F**: 02 9317 2051 **W**: lsansw.com.au
Suite W3G, Building 2, Sydney Corporate Park, 75 – 85 O'Riordan Street, Alexandria NSW 2015

Key considerations: Authorisations and processes

Clause 33 – Inner West micro-brewery applications (new provision):

LSA does not have any specific comments, as this proposed trial does not apply to PLL.

Clause 38 – Incident registers (clause 27 of current Regulation):

LSA is supportive in principle of the proposed change, which requires that any incident involving a substance being found on the premises that is reasonably believed to be a prohibited or controlled drug is to be recorded in the incident register.

However, LSA notes that Section 56 of the Act – the requirement to maintain an incident register in the form approved by the Authority – relates to late trading on premise licences trading after midnight, and is not a requirement for PLL.

Note – an exception exists for PLL situated in the Kings Cross and/or Sydney CBD Entertainment Precincts. There are around 60 PLL in these precincts (2% of total number of PLL), of which around 1/3 are online-only PLL (no walk-up condition) and as such not applicable.

In 2014, the Regulator consulted with the LSA and other peak industry bodies in relation to the development and implementation of electronic incident registers (EIR) for the Kings Cross and Sydney CBD Precincts, and the LSA was pleased to have been involved with this discussion, and the subsequent approval of the use of EIR in this respect.

In 2017 LSA made a submission to the Regulator's evaluation of the effectiveness of incident registers.

LSA is generally supportive of the concept of incident registers, and encourages members to maintain an incident register (whether required to by regulation or not), as a useful compliance tool, alongside various other self-regulatory compliance procedures and 'best practice' activities, even though the propensity for 'incidents' to occur on a PLL premise is relatively low.

Clause 42 – Authorisation to trade on premises other than licensed premises (clause 20 of current Regulation):

LSA does not have any specific comments, as this proposed change does not apply to PLL.

Clause 90 – "Round the clock" incident register (Clause 53L of current Regulation):

LSA is supportive in principle of the proposed change, which requires only high risk venues to maintain a 'round the clock' incident register, and that any incident involving a substance being found on the premises that is reasonably believed to be a prohibited or controlled drug is to be recorded in said incident register.

Clause 130 – Conversion of existing licences to small bar licences (Clause 70D of current Regulation):

LSA does not have any specific comments, as this proposed change does not apply to PLL.

Key considerations: Community consultation

Clause 118 – Exemption relating to community impact statement (CIS) (new provision):

In principle, LSA is very supportive of this proposal, which seeks to simplify the process for community stakeholders and applicants alike.

Formal discussions between industry and government concerning the liquor licence application process and the Community Impact Statement (CIS) have been occurring since May 2014, when the Authority wrote to the LSA and other stakeholders announcing its review of the CIS process, and sought the views of key stakeholders as part of the preliminary consultation phase.

The findings from these consultations were to help to inform the Authority of key CIS issues and guide the development of a discussion paper. A call for public submissions would form the second phase of the consultation process, and the discussion paper would be made available to assist those who wish to make submissions to the review.

As part of the Liquor & Gaming Reform measures announced in late 2015, the new 'fit-for-purpose' Regulator established a dedicated community access team whose role would be to assist, inform and educate community members so that they can participate in liquor related decisions, policy development and government initiatives.

The team works with community groups and individuals to help them understand how to make a contribution to the liquor and gaming licence application process, and about the ways to have a say and stay informed on licensing decisions and make a contribution to policy reviews.

In July 2017, LSA made a submission to the Regulator's *Evaluation of the Community Impact Statement (CIS) requirement for liquor licence applications*.

LSA believes that community stakeholders are being appropriately consulted, and the right community stakeholders are being invited to provide feedback on proposed liquor applications.

Community stakeholders should have confidence that the Authority and their delegated officers are taking their feedback into account when making a decision on an application, even when this feedback is positive as part of the CIS process, which often is disregarded or ignored.

However, LSA still remains concerned that delegated officers continue to go out of their way to solicit feedback from key community stakeholders, even if these bodies choose not to comment or have no objections, and even after the defined timeframe for stakeholder consultation, which hardly seems fair and impartial.

Deadlines exist for a reason, and if stakeholders fail to submit within the required timeframes then the process should be continued without any further delay, with submissions received after the deadline to be disregarded.

The existing CIS process is in most cases the most crucial stage in the process of applying for the grant of, or removal of a licence, and the cost of preparing a CIS can be substantial given the significant number of organisations that must be consulted, albeit prior to an application being lodged.

While this is a significant cost for large organisations it particularly impacts on small independent operators who do not have the resources to prepare submissions, nor the skills to conduct a community consultation. Inevitably those operators need to engage professional assistance at considerable cost impost to compile their CIS and application.

The CIS and application process can take applicants in excess of 50 hours to prepare, with legal costs well in excess of $10,000, including research, serving notices, assessing responses and physically preparing the CIS. The entire process can take 6 – 12 months (excluding the DA component), and even longer when applications are contested, suggesting that the process could be streamlined.

In addition, LSA would strongly recommend that consideration be given to allowing for licence applications and development applications to be run concurrently, whereby a licence application could be conditionally granted and exercised if Local Consent Authority provides approval which is consistent with the licence approval, as is the case in other jurisdictions.

Again, LSA is supportive of any change that aids in reducing administrative burden and red tape, whilst ensuring that community stakeholders are being appropriately consulted.

Unless expressly covered in Clauses 20, 22 and 27, LSA is curious to gain a deeper understanding as to government's intention with respect to the following commentary in the RIS (page 18), as LSA would argue that community stakeholders, following the establishment of the dedicated community access team, are already being appropriately consulted, and have ample opportunities to respond and seek support:

Community stakeholders will have 30 days to make their submission, and will also be provided with additional support to assist them in contributing effectively and meaningfully to that process.

Separate to the Regulation, improved guidance to industry and community will lead to better information supplied to decision makers when considering community impacts.

Clause 20(1) – Definitions: Notification radius for advertising requirements (Clause 6 of current Regulation):

LSA welcomes the proposed simplification of the process, which will require community notification on one occasion only, rather than the present system which requires neighbouring occupiers to be notified twice. In our experience, double notification causes confusion to many recipients of notices.

However, LSA does not support the proposed notification radial increase from 100m to 200m.

Such broad notification requirements are unduly wide and impose significant cost. It is not uncommon for applicants, particularly in metro areas to deliver from 500 to over 1,200 notices. Changing the radius to 200m would have an exponential effect on the number of notices to be delivered, and in high density locations applicants could end up having to deliver 5,000 or more notices.

As to the proposed approach for the Authority to be able to determine a shorter or longer distance, on a case by case basis, where it considers there are special circumstances that warrant a different notification radius, LSA is unsure as to how this will actually work in practice, and further, would seek to discuss and clarify the specific circumstances that would give rise to the Authority making this request.

With respect to the proposed amendments regarding shopping centres, taking the whole of the shopping centre as a focal point for radius calculation will enhance community consultation. However, a particular problem arises from the combination of the proposed two reforms (that is, taking the whole of the shopping centre as the focal point for radius calculation and then applying a 200m radius for notification).

In the context of communities characterised by higher density development, this may result in inordinately large numbers of residents and other neighbouring occupiers having to be notified of an application. Many of these residents being located in 'secure buildings' where access to mail boxes may be restricted.

In this instance, servicing the Body Corporate of the complex should be sufficient.

Clause 22 – Other persons to be notified of application (Clause 8 of current Regulation):

The present definition of the organisations required to be notified is vague. Being vague, the definition causes uncertainty and also gives rise to inconsistent results, as some applicants will notify services in neighbouring areas whereas others will not

It would be desirable for the Regulator to publish a list of known service providers in each local government area, which is then periodically updated. Other support services can elect to opt in or out from time to time as they wish.

LSA is curious to gain a deeper understanding as to government's intention with respect to the following commentary in the RIS (page 19) around 'additional consultation', for the same reasons as explained above for Clause 118.

In its place, it is proposed that applications for licences and authorisations will have to undergo additional consultation by requiring applicants to notify relevant persons that an application is being made.

This change is intended to support the enhanced community consultation that will occur after an application has been made that will allow the bodies listed in clause 22 of the proposed Regulation to make a submission on the application to the Authority.

Clause 23(4) Notice relating to application to be fixed to premises:

LSA believes this clause is ambiguous in its current drafting, and cannot see how this can possibly be complied with in a shopping centre environment (large or small) where there may be more than 10 entry points. Centre Owners would simply not permit this.

As such, LSA recommends that Clause 23(4) (b) be deleted.

Clause 27 – Submissions in relation to applications (Clause 12 of current Regulation):

LSA does not have any specific comments, as this proposed change does not apply to PLL.

Key considerations: Exemptions and exceptions

Whilst not referenced in the RIS, LSA would recommend that further amendments and improvements could be considered with respect to Part 9, Clause 115 (page 53), currently written as follows:

Clause 115 – Exemption relating to take-away liquor trading hours:

(1) This clause applies in relation to licensed premises (or part of licensed premises) to which section 12 (1B) of the Act applies but only if the premises (or relevant part of the premises) are authorised to trade until 10pm.

(2) The licensee of licensed premises (or part of licensed premises) to which this clause applies or an employee or agent of the licensee is exempt from so much of section 9 of the Act as would prohibit the licensee, employee or agent from selling or supplying liquor between 10 pm and 11 pm on any day (other than a Sunday that does not fall on 24 December or 31 December or a restricted trading day) for consumption away from the premises.

(3) However, the exemption under subclause (2) does not apply in relation to licensed premises if the licence is subject to:

(a) a condition imposed by the Authority or the Secretary before 24 February 2014 that requires the premises to cease trading at or before 10 pm on any day that the exemption would otherwise apply, or

(b) a condition imposed by the Authority or the Secretary on or after 24 February 2014 that requires the premises to cease trading before 10 pm on any day that the exemption would otherwise apply.

The LSA was unclear about why the earlier closing restriction was introduced in the first place, and the above-mentioned regulatory amendments made in late 2016, permitting bottleshops to again trade until 11pm, struck the right balance, were welcomed by the LSA, as they represented a sensible and pragmatic response from the NSW Government.

Evidence demonstrated there was little or no community benefit arising from the mandatory 10pm closing of all bottleshops across the state. The overwhelming majority of residents of NSW, as well as local and overseas visitors, consume alcohol responsibly and the 10pm closing merely penalised them, for the irresponsible actions of a small number of others.

LSA welcomes the opportunity to discuss possible amendments and improvements to this clause, and its application.